

The Priviledges
OF THE
BARONAGE
OF ENGLAND,

When they sit in *Parliament*.

Collected (and of late revised) by *John*

Selden of the Inner Temple *Esquire* out of the *Parliament* Rolles, and *Journalls*, Patent, and close Rolls; the Crowne Rolls, the proceedings of the English Courts at *Westminster*, the Register of the *Arch-bishop* of *Canterbury*, and the Delegates yeare-Bookes, of the Common Law, *Statutes* & other good Authorities, and in such sort that frequently the words of the chiefeſt Testimonies are transcribed, least the freedome of the Readers Iudgement might be other wayes prevented by short Collections. The recitalls of the French Records in the 4th. Chap. also newly translated into English for the benefit of others, as well as the Students of the Lawes of England.

Quo communius eo magis bonum quod est iustum.

LONDON,

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The Introduction by way of
Table or Index to the Chapters fol-
lowing contained in this *Treatise*.

P*Priviledges* are speciall Rights belong-
ing to the *Baronage* of *England*. In
which name are comprehended all those,
who as *Magnati & proceres regni* by
common right are summoned to every *Par-*
liament wherein also they have place and
voyce as incident to their Dignities, and
what things doe concerne them either as
they are one Estate together in the upper
House, or as every one of them is private-
ly a single *Baron*. As for the prelacy who
had heretofore the first place in the sum-
mons, viz. *Praelati, magnates &c.* they
have now lost all their Priviledges of sit-
ting in *Parliament*, and of bearing of any
secular Offices in the Kingdom, they are
disabled by act of this present *Parliament*,
17. Car. 1641.



For Priviledges of the first kinde.

CHAP. **T**Estimonies are hereby collected
touching.

1. *Their proxies and making of pro-*
xies ————— 1
2. *Their proceedings in Suits as well for*
followers as for themselves during the
Parliament. ————— 7.
3. *That none of them bee subject to bee*
questioned before the lower House
only. ————— 9.
4. *Their Jurisdiction in* { *as well* } *ca-*
matters of offences { *Spiri-*
tal, as not } *Errors out of the* — 10
capitall. { *Kings Bench.*
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————— 127

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For Priviledges of the second kinde, of which also some are communicated to *Baronesses*. The heads of the Collections are,

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committed to them without words of
the special power. ————— 167*



BESIDES these, they have some Rights which are so commonly knowne, that there needs no particular mention of them; as their interest in making, or repealing of *Laws*, or the like, and divers others may perhaps be found, which have not been oblivious in the late search made for them: but of these particulars before mentioned, according to the order in which they are described, such store as are here collected doe follow.

First



First, of the speciall

RIGHTS,

WHICH

Concerne them, as they
are one estate in the upper
House of *Parliament*.



CHAP. I.

Of Proxies of the Lords of Parliament.



ON the summons of the
Parliament, licence of ab-
sence being obtained, and
the same licence as usually it
being provided that a *pro-*
xie bee made, the *Baron* so
licensed may appeare onely by that *proxie*,

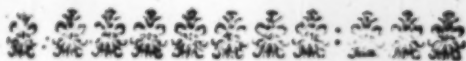
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to

to whom his voyce is so committed, although his Writ bee *Quod personaliter interit*, and so also without licence upon sicknesse or such inevitable cause of absence.

The first mention of *Proxies* that occurs in the memories of our Parliaments, is of *Carlisle* under *Edward* the first, where the words are, *Quia omnes Praelati, Milites, & alij de communitate Regni, tunc plenarie non venerunt receptis quibusdam procuratoribus Praebitorum, qui venire non poterant adjornantur omnes qui summoniti sunt ad Parliamentum, usque ad diem Mercurij proximum sequentem ad horam primam.* And in a Parliament held at *Westminster* under *Edward* the second; the Bishops of *Durham*, and *Carlisle* remaining upon the defence of the marches of *Scotland*, were severally commanded to stay there; And in the Writ this clause was ordered to both of them. *Sed procuratorem vestrum sufficienter instructum ad dictos diem, & locum mittatis ad consentiendum quod tunc ibidem per dictos prelatos & proceres contigerit ordinari.* And the like Testimonies are afterwards under the same King for allowance, and making of proxies by the name of *procuratores sufficientes*. And in succeeding times the Testimonies of them
downe

downe to this day are most frequent.



But two things are most especially observable touching them.

(1.) **T**hat although the generall proxies were admitted, yet when the nature of the Parliamentary businessse required more speedie and full advice, a clause was inserted into the summons to premonish the *Baron* summoned, that his *proxie* should not bee admitted unlesse he were compelled to absent himselfe by most inevitable necessity. So was it in the Writs of summons under *Edward* the third to the Parliament, held for advice touching the voyage of the King of *France*, into the holy Land, every *Baron* having these words in his Writ. *Scientes pro certo quod nisi evidens, & manifestus id exposcat non intendimus procuratores seu excusatores pro vobis admittere, ea vice propter arduitatem negotiorum predictorum.* And likewise under *Richard* the second, the summons to the Arch-Bishop of *Canterbury*, and the rest had these words. *Ecce hoc nullatenus omittatis ne quid absit per vos*

stram absentiam quam necessitate infirmitate tunc actenti fueritis quod aliquantulum illuc laborare non poteritis nullo modo excusatum habere volumus, ista vice expeditione posterior nostrorum praeceptorum retardetur, seu aliquantulum deferatur. And divers other Examples are for personall appearance and excluding *Proxies*.

(2.) That the course of the elder time was: not that *Barons* onely were made *Proxies* in the upper House as at this day but other men also of low condition, and this hath beene very frequently in the case of Bishops, and Parliamentary *Abbots* and *Triors*, who gave their letters usually to Parsons, Prebendaries, Canonists, and such like. In that Parliament of *Carlisle* under *Edward* the first, the Bishop of *Exeter* sent to the Parliament, *Henry de Pynkney* parson of *Foughton* as his *Proxie*. The Bishop of *Bath* and *Wells* sent *William* of *Charleton*, a Canon of his Church, and in like sort other of the spirituality of that time.

In the beginning of the 17th. yeare of *Richard* the second, the Bishop of *Norwich* made *Richard Corqueanx* being then Deane of the *Arches*, *Thomas Hederfet* Archdeacon of *Sudbury*, and *John Thorpe* parson of *Epingham*, his *Proxies* by the name of

of *Procuratores five nuntij*. And in the same time the Bishop of *Durham's proxies* were *John of Burton* Canon of *Bewdley*, and Master of the Rolls, and *John of Wendlingborough* Canon of *London*, and other like are of the same time. By which also that of the Preamble of the Statute of *Præmunire* is understood, where it is said that the advice of the Lords spirituall being present and of the *procuratores* of them that were absent, was demanded. The like under *Henry* the fourth and *Henry* the fifth are found in the Rolls. And under *Henry* the fifth the Arch-Bishop of *Yorke* gives the *proxie* to the Bishop of *Durham*; and to two other Clerkes of his Province. And it is observable that in the making of *proxies* by the whole number of Bishops in case of Attainders upon Appeale, their course was sometime to make a Gentleman beneath the degree of a *Baron*, their *Proxie* as under *Richard* the second, first they made their *proxie* for assenting in the Parliament, but afterwards the Earle of *Wiltshire* had that place in the same Parliament. But this of making others then *Barons* of Parliament, *proxies* is carefully found in the cases of the Lords spirituall.

One speciall case of it is under *Henry* the fifth, in that of *Thomas de la Ware*, who
B 3
being

u. 87

being a Clergie man had his *Barony* descended unto him, and is stiled in the summons alwayes *Magister Thomas de la Ware*, and not *Dominus*, hee gave his Letters to, *John Franke* and *Richard Hulme* Clerkes but the *proxie* Rolls for the Temporall Lords are for the most part lost. The following Times especially ever since the first memorie extant of the Journalls of the upper House; which began the first of *Henry* the eight, have kept a constant course of making parliamentary *Barons* onely *proxies*. And it appeareth in those Journalls that one two or three are joyned *conjunctim*, & *divisim*; and most commonly Temporall Lords have given their *proxies* to temporall and spirituall men: yet not without a Temporall Lords giving his letters of *proxie* to a Spirituall, and Temporall Lord together. And under Queen *Mary*, *Francis* Earle of *Shrewsbury* made *Anthony* Viscount *Mountague*, and *Thomas* Bishop of *Ely* his *proxies*. And in the beginning of Queene *Mary* *Stephen* Gardiner Bishop of *Winchester* was joyned in letters of *proxie* sometimes with a Temporall Lord. But the Lords spirituall have so much mistaken (of late) the Lawes of this Kingdome, the Kings prerogative given by the Law, and what and whence was
the

the Originall of the Honours, they themselves had obtained: and have beene ready to enlarge the Dominions of *Antichrist*, and to induce an arbitrary government by their writings, and other apparent practises, in so much as now they have lost both Priviledge and Vote in Parliament.



CHAP. II.

Priviledges in Suites as well for their followes as for themselves during the Parliament.

IN a Bill exhibited under *Henry the fourth*, is shewed that the *Lords Knights &c.* and their men, and servants &c. should not be arrested or otherwise imprisoned by the custome of the Realme, and it is prayed that if any be the parties offending may make fine and ransome, and give dammagcs &c. Hereunto the Answer is, there is sufficient remedy in the case. In the beginning of *Queene Elizabeths* reign, *John Broxham* being Plaintiffe, in an *Assise* in the County of *Lincolne* against the Lord *Willoughby*, it was ordained, that an Injunction should goe out of the *Chancery*

Subpena 500. l. That the Plaintiff should not proceed to Tryall.

To this head may bee referred that case of the Lord *Cromwell*, cited in the Title of *processe* against them in English Courts, & in the Iournalls of Queen *Elizabeth*, King *James*, and our present Sovereigne, the Testimonies of these priviledges for the servants of every *Baron* of Parliament are most frequent.

Rot. Parl.
18. E. 1.
Rot. 2. Dor-
10:

Hereunto may be added that of the first citation out of an Ecclesiasticall Court against the Earle of *Cornewall*, which was served upon him in *Westminster Hall*, as he was going to the Parliament at the Suite of *Bago de Clare*, and the Prior of Saint *Trinity* in *London*, for the Earle sued them for the contempt, and recovered 1000. Markes damages. And in the same Parliament the Master of the *Temple* petitioneth that he might distraine for rent in a house in *London*, which it seemes the Bishop of Saint *David*s held of him. *In qua non potest distringere in tempore Parliamenti.* But answer is, *non videtur honestum quod Rex concedat, quod ille de consilio suo distringatur per Ostia & fenestras & prout Moris est.*



CHAP. III.

*No Peere of the upper House to be called
to answer in the lower House only.*

Thomas Philips complained of the Bishop of London upon divers Articles in the lower House, and at first by Order of the House, whence it was referred by reason of the slight nature of the offence, &c. whereupon the Bishop remembring the upper House of their Priviledges, *Ejus verbis auditis preceres omnes unâ voce dicebant quod non consentaneum fuit aliquem procerum pradiſtorum alicui in eo loco responſurum.* So where the Bishop of Bristol had written the Booke of Union, which was conceived to be derogatory to the honour of both Houses, yet hee was complained of onely in the upper House, and that so he might bee, and not before the lower House alone, it was acknowledged, in the message delivered from the lower House touching him. The like is the priviledge of the Bishops complained of in this present Parliament, 1641.

2 Martii in
Dyc: pasch
15. Hen: 8:

CHAP. 4.



CHAP. IV.

The Jurisdiction of the Lords of Parliament in matters of offences, as well capitall as not capitall, and in errors ons of the Kings bench.

THe power of Iudicature belonging to the Lords of Parliament, is chiefly scene in their Jurisdiction upon Writs of error, and their Iudgements of Offences, as well capitall as not capitall, which they give to any publicke mischiefe in State.

See 3. H. 3.
fol. 9.
Scroope.

Of these Iudgements of such Offences many examples are of former times in the Records of Parliament, and out of them are here selected, some such as most of all conduce to the opening of the course of Accusation, the forme of the Defendants, answering the usuall wayes of Triall, and other Incidents in their various kindes of Iudgements, which are found arbitrary in cases not capitall: so that they extend not to the life or inheritance, and in capitall offences so Arbitrary, that the forme of the death inflicted sometimes varied from

from the ordinary course used in the common Law for such offences.

Under the first Head these cases of

- | | | |
|----------------------------|---|--------------------------------|
| 1. <i>John Matravers</i> | } | 5. <i>William of Ocle.</i> |
| 2. <i>Borges of Bayons</i> | | 6. <i>John of Gomeniz, and</i> |
| 3. <i>John Deverill</i> | | 7. <i>William of</i> |
| 4. <i>Thomas Gourney</i> | | <i>Weston.</i> |

All condemned to death for Treason, and all to bee drawne, and hanged saving *Gomeniz*, who was judged to bee beheaded, because he was a *Banneret*, and had served the King in his Warres.

Under the second Head are these cases of

1. *John at Lee Steward of the household.*
2. *Richard Lyons.*
3. *William Lord Latimer.*
4. *William Ellis.*
5. *Chichester and Botesham.*
6. *Alice Pierce.*
7. *Cavendish against Sir Mich. de la Poole Chancellour of England.*
8. *The Earle of Northumberland.*

For Writs of error their power, and
course

course in them may bee scene, some speciall examples which are expressed, whereunto is added that of *Thorpe* being Speaker of the Lower House, under *Henry* the sixt which specially shewes the power of Iudicature in the Lords, although otherwise it tast too much of what is wholly against the priviledges of every member of the Parliament at this day.

*Ex rot. Parliamenti 4. E. 3. mem.
3. num. 3.*

VItnesse the Peeres, Earles and *Barons* assembled in this Parliament, at *Westminster*, that it is openly assented and agreed, that *Iohn Maitravers* is guilty of the death of *Edmund* Earle of *Kent*, the Vnckle of our Lord the King that now is, as he that principally, traiterously and falsely compassed the death of the said Earle, so that the said *Iohn* did know of the death of King *Edward* our Father, when the said *Iohn* by haynous manner, and by his false and wicked deeds conspiring with the sonne of the said Earle against the life of the King, which hee did act ally commit, for which the said Peeres of the Land and Iudges of the Parliament, adjudge and award that the said *Iohn* bee drawne,

drawne, hanged and quartered as a Traitor, in what part of the Kingdome soever he be found, and the said Peeres doe pray our Lord the King, that hee will command that a writ be made to make search and enquiry throughout the Realme, and that he that can take the said *John* alive, and bring him to the King shall have a hundred markes, and if in case he cannot be taken alive, he that brings his head shall have fiftie pounds of the Kings guift.

Moreover to have such judgement, it is agreed, that it be put in execution of *Boges de Boyons*, and *John Deverell* for the cause afore-mentioned, and that hee that can take the said *Boges* alive, and bring him to the King shall have a hundred pounds. and he which brings the head of the said *John* shall have forty pounds of the Kings guift.

Rot-parl. 4.
E. 3. m. 7.
Boges of
Boyons,
John Deve-
rell.

Item it is assented and agreed, that *Thomas Gourney* and *William of Ocle*, shall have such judgement for the death of King *Edward* (Father of our Lord the King that now is) who falsely and traiterously murdered him; and who can apprehend the said *Thomas*, and take him alive shall have a hundred pound, and he that can bring the head of him a hundred markes; likewise he that can take the said *William* alive shall

Thomas
Gourney,
William of
Ocle.

shall have a hundred markes, and hee that brings the head of him (if in case hee cannot be taken alive) shall have forty pound of the Kings guilt.

*Rot. Parliamen. 4. R. 2. M. 5. in
Schedula annexa.*

THIS Schedule the Commons made and caused to be brought in Parliament, praying the Lords to ratifie the same, and to put in execution; in that schedule amongst divers others, this Article occurs.

Item that all those which have lost, or rendred when necessity required not, Castle Towne, or Fortresse to the dishonour of our Lord the King, the Lords and Commons in this present *Parliament*, being every of them attainted of such fault, shall be punished according to their desert without partiality, for to avoyde the evill example which they have given to all others.

Then afterwards followes an Accusation and a Iudgement upon an offence of that nature.

ITEM where the Supplication is by the Commons, that all those which have

have rendred and lost Castle or Townes ;
 lost by the very default of Captaines may
 be put to their answer at this *Parliament*,
 and according to their desert thoroughly
 punished by the *award* of the Lords and
Baronage , avoyding the evill example
 which they have given to others, and that
Allen Buxall (Constable of the Tower of
London) shall cause to come before the
 Lords of *Parliament* at *Westminster* , on
 friday the 27. day of *November* in the
 yeare afore mentioned , *John* Lord of *Gom-
 eniz*, and *William* of *Weston* imprisoned
 and detain'd in the said Tower at the com-
 mandement of our Lord the King, because
 they have rendered and lost faithfull Ca-
 stles and Townes of our Lord the King, for
 to answer upon the Articles which there
 shall be preferred for the said cause , on the
 behalfe of our Lord the King. At which
 day being friday , the said *John* and *Willi-
 am* were brought by the said Constable of
 the Tower before the Lords aforesaid , sit-
 ting in full *Parliament* in the great cham-
 ber ; They were severally put to answer
 at the commandement of the said Lords ,
 by sir *Richard Scroope* Knight, (*Stew-
 ard* of the Household of our Lord the King)
 in manner as followeth.

William of *Weston*, you have taken upon
 you

John of *Gom-
 eniz* .
William of
Weston.

you to the thrice powerfull Prince, whom God have in his keeping, Lord *Edward* late King of *England* (Vnckle of our Lord, the King that now is) surely to keepe to him, and his Heires Kings of *England*: the Castle of *Barnwick* without surrendring the same to any but him; or his said Heirs, have you *William* who were a leige man of our Lord the King that now is (true Heire of the late King *Edward*) delivered and surrendered the said Castle to the Enemies of our Lord the King, without his Comman tement in dishonour of him, and his *Crowne*, and of the Estate of his *Realme* of *England*, against your leigance and undertakings: whereupon hee put his answer in writing, having a Schedule contayning the Tenor of many things, and came and read the said Schedule in full *Parliament*, upon which the Law was demanded by the said Steward, if the said Schedule should bee taken for his finall answer in that behalfe or not. And thereupon the said *William* prayeth that the said Schedule may be redelivered to him, and there hee putteth in his finall answer, and after the said *William* put into the said Schedule an Addition in full *Parliament* for finall in that behalfe: The Tenor of which Schedule is such as followeth.

To the most sage Councell, of our Lord
the King, and to the other Nobles
and Commens of Parliament.

William of *Weston* beseecheth, and
shewes that he is accused malici-
ously, to have rendered the Castle of *Bar-*
wick, which he had in keeping upon the
Trust and assignement of our Lord the
King: may it please your just and learned
discretion, to have the said *William* excused
for the causes which follow. First, may it
please you to remember how that the said
William was lately warned by a Spie, that a
very great power of Enemies came against
him, for to besiege the said Castle, and to
batter the same with great Ordinance,
whereupon the said *William* forthwith by
his *Attourney*, and by his Letters reque-
sted the Councell, that they would please
to fortifie the said Castle with more Gen-
tlemen, for the defence and safeguard ther-
of, having regard that the garrison of the
said Castle was not sufficient for halfe the
multitude of so great force, to make resi-
stance in so large a place: but in the end
for that hee could have no succour of the
said Councell, and likewise (the said *William*
being not in default was left without suf-

The same
Petition is
in the roll
of petitions,
of the first
of R. 2. 11
& ultimo.

ficient souldiers of a long time, whereby to keepe and defend the said Castle, whereof hee beseecheth you that you will take just, and benigne consideration.

Likewise may it please you to take notice by the privy Scout of Warre, that there came the Enemies power of *Armes*, and seven hundred fighting men, with 6000. of the common souldiers of the Land, having nine great Cannons, a great *Engine*, and a *Trebuchet* big above measure, which they carried in their marches, that thereby presently a great part of their Gentlemen of *Armes*, & souldiers aforesaid came before the Gates of the said Castle, to assault it, and there was a Knight of theirs killed, which was cozen to the Lord of *Chiffin*, insomuch that officers and many others also were there slaine: and in a short time after they beganne to plant their Cannons, and *Engines*, and so continuing from day to day their assault (that is to say) Tuesday, Wednesday, and Thursday, and the walls then of the houses and of the said Castle were broken, and divided in many places, and they had by force filled the ditches of the said Castle in three places, if possible to make way for them to issue, and there came upon the said workes a great part of them, and they by force had

had broake and spoyled many of our bars;
 and the morrow after which was Fri-
 day, they came at the break of day with
 all their strong men to assaile the said
 Castle; but by the help of God they
 were not yet *Conquerours* by force of
 their Assault. And of our side and of their
 side there appeared great death and losses,
 and the same day the Marishall of *Burgoy-
 ny* treated with the said *William* and
 others, to render the said Castle: Where-
 fore and in consideration, that the said Ca-
 stle could not hold out for the smallnesse of
 the number of Gentlemen there, and for
 that the walls in many places were beaten
 down by their marvelous Ordinance, there
 was a *Treatie* with the Lords, to the end
 that the said *William* with his companions;
 might know what to doe the next morn-
 ing, whether to stay or depart from thence.
 Likewise the same night the Enemies had
 brought all their Ordinance, their *Engines*
Trebuchet and *Cannons*, upon carriages
 drawne by Horses to the foot of the ditch
 of the said Castle, and the next morning
 which was Saturday, they put themselves
 all in *Order* to assault the place, and then
 first of all they sent a *Herald* to the said
William, to know if the same Castle should
 be rendered or not, whereupon the said

William by advice of the graver sort of his companions, having consideration how the said place was destroyed by their Ordinances, and also that there were few Gentlemen left for the defence, and that twelve of their companions were at that time dead, and that many being wounded and sick, he could not renew the Gentlemen of the *Garrison*, and that for safety to defend themselves, there being only but thirty eight, and by common assent the said Castle which hee could hold out no longer, was by force rendered for safety of the lives of the men. That all these things aforesaid are true, the said *William* putteth himselfe upon Tryall according to your discret Ordinances.

Item, it is to be remembered that when the said Castle was rendered (as aforesaid) certaine Gentlemen of *France* did bargain with the said *William* for his victualls, and bought the same together with certaine persons, which the said *William* held within the said Castle in Prison, for which things hee received of them 1000. and 500. *Franks*, whereof hee paid to his companions for part of their wages which then was behind, three quarters of a year, 678. *Franks*.

Item, hee payed at *Calis* for victualls of
the

the said Castle before that time due 1442.
Franks.

Item for the passage of the said *William*,
and for his expences being at *Callis* 135.
Franks. And therefore the said *William*
beseecheth that you have regard to Iustice
and bounty, how that he by envious sug-
gestion hath beene against all reason accus-
ed thereof concerning his estate and name,
for which offence hee hath seised and stay-
ed some of the Cattells of his Adversaries,
and that you have consideration how that
hee hath payd his companions out of his
proper goods for their wages, and that
you will be pleased for Gods take and piety
also to ordaine for him, that by your dis-
creet noblenesse, hee may recover his E-
state and goods.

Item the said *William Weston* sheweth
how the first day, when the Enemies came
before *Ardee* he fled thence to the Army at
Callis, to the Captaine there, to pray of
him more succour and aide of men to
guard the Castle of *Barnick*, and to defend
if the Enemies had assaulted, and the Cap-
taine answered him bricfly, that he would
not deliver nor lend succour, nor aide at
that time, for that he doubted himselfe the
Enemies would come before the Towne of
Callis. And the Lord Steward came and

read the said schedule in Parliament. *John* Lord of *Gomeniz*, you have undertaken to the thrice powerfull Prince, whom God preserve, Lord *Edward* late King of *England* Vnckle of our Lord the King that now is, safely to keep to him and his heires Kings of *England*, the Towne and Castle of *Ardee* without surrendring the same to any, but to the said King and his Heires, or by the Commandement of him and his Heires. Have you (Lord of *Gomeniz*) in time of our Lord the King surrendred the same without his commandement, to the detriment of him and his Crowne, and of the Estate of his Realme of *England* against your undertaking at refei? what say you to it? whereupon the said *John* answereth, that the said Towne and Castle of *Ardee* was so feeble; that hee could not well keepe it against so great power of the Enemies, which were readie to assaile the said Towne and Castle, and therefore he went forth to intreat with the Enemies, that he might save the liege men of our Lord the King being within that Towne and Castle of *Ardee*, without that that he at any time tooke any thing for the surrender of the said Towne and Castle of *Ardee*. Whereupon one *Geffery* of *Argentine* Knight, said in full Parliament to the said *John*,

John, that he the said *Geffery* was at that time in the said Town and Company with the said *John*, and that the Town and Castle of *Arace* were not at any time delivered by his assent, but that he was ready to stay & come upon the safe guard thereof, and this the said *Geffery* affirmed. And moreover it was demanded of the said *John* if hee had any other thing to say? and hee answered no: whereupon the Constable was charged with the safe keeping of the said *John* and *William*, untill the morning of the next day; and then to bring them againe safely before the said Lords in the said Parliament at the place and day aforesaid. At which day (that is to say) the eight and twentieth day of *November*, in the yeare aforesaid, were the said *John* and *William* brought againe in full Parliament, and there it was shewed severally by the said Steward at the same day, by Commandement of the Lords aforesaid, how upon the Answers which the said *John* and *William* have given in the said Parliament, (as before mentioned) to the Lords of the said Parliament, viz. the King of *Castile* and of *Leon*, and the Duke of *Lancaster*; *Edmond* Earle of *March*, *Richard* Earle of *Aruncell*; *Thomas* Earle of *Warwick*, *Hugh* Earle of *Stafford*, *William* Earle of *Sus-*
folke,

folke, *William* Earle of *Salisbury*, *Henry* Earle of *Northumberland*, *John* Lord *Newill*, *Roger* Lord *Clifford*; and many other Lords, Barons, and Baronets being assembled in the said Parliament, to advise at the time when the said Answers were given in Parliament, the Friday Even at the howe of three a clock, of the matters touching the answers aforesaid, and viewing and examining diligently the said Answers, and other Articles concerning that businesse. And upon good and mature deliberation and Information, given of the most valiant and discreet Knights, and others being in the said Parliament, it was said in manner as followeth, to the said *William* by the Steward reciting the things aforesaid, touching the said *William*. It seemed to the Lords aforesaid, that you *William* without duresse or default of victualls, have wickedly delivered, and surrendered to the Enemies of our Lord the King for your owne lucre, contrary to all plea of right or reason, and against your liegeance and undertaking according to an Information in such case: which mentioneth whereas the late Baron of *Graystock*, who was a Lord and one of the Peeres of the Realme, had taken upon him safely to keepe to the aforesaid King, the Towne of *Barnwick*:

Barnick: presently after the said King prepared himselfe to travell to the Kingdome of *France*; the said Baron without the Kings Commandement, left the said Towne of *Barnick*, and a valiant Etquire *Robert Ogle* as Lievtenant of the said Baron, who faithfully should keepe the said Town of *Barnicke* to the King. And the said Baron went as a horseman to the parts of *France* to the said King, and there stayed in his company, surmizing that an assault of warre was made at the said Towne of *Barnick* by the *Scotts*. And the said *Robert* as Lievtenant of the said Baron, descended forcibly there, and at last by their assaults the said Towne was taken, and the said *Robert* and two of the sonnes of the said *Robert* were slaine, he being in the company of the King in the parts of *France*: And it was said that it was adjudged by the advise of the said King in the parts of *France*; & the said Dukes, Nobles, and Earles together with *Henry* Duke of *Lancaster*, the Earles of *Northumberland*, and *Stafford*, and Sir *Valley Maney*, that the said Towne was lost in default of the said Baron. And for that cause hee had Iudgement of life and member, and that he ought to forfeit all that hee had, and Iudgement was rendered in these words
by .

by the commandement of the King, which things also considered, for that you *William* have surrendered the Castle of *Berwick* to the Enemies of our Lord the King aforesaid; without duresse or default of victuall against your alleageance, and undertaking aforesaid, the Lords aforesaid sitting in full Parliament adjudge you to death, and that you be drawne and hanged, but for that that our Lord the King is not yet informed of the manner of this Iudgement, the execution thereof shall be put in writing untill the King bee informed: wherfore it is commanded to the said Constable safely to keepe the said *William*, untill he hath other commandement from our Lord the King. And as touching the said *John* Lord of *Gomeniz* touching the Answers aforesaid. It was shewed there by the said Steward, how the said Lords were assembled, and advised of the said Answers as before said. Moreover it was shewed how that at the time, that Sir *Ralph Ferrars* Knight had the keeping of the Towne and Castle of *Ardee*, the said Towne was not so strong by the one halfe, as it was at the time when the said *John* surrendered the same, and the said *Ralph* did put himselfe in perill for the safeguard thereof, and forthwith the said *Ralph* did hold,

hold, and forcibly defend the same against
 a very great and forcible assault, and other
 evidences concerning the said *John* in this
 behalfe were delivered, (as followeth) to
 the said *John* being in Parliament, by the
 said Steward, reciting all the matters a-
 foresaid touching the forementioned
 Iudgement of the said Baron and the cause
 thereof in manner as before, it seemeth to
 the Lords before named sitting in full Par-
 liament, considering your answers in this
 behalfe, and your examinations, and Infor-
 mations therein, that lately amongst the
 number of Gentlemen, by whom you have
 strongly undertaken safely to keepe the said
 Towne and Castle with twentie men of
 Armes, and twenty Archers you were sent
 to the said Towne and Castle of *Ardee* in
 the Afforcement thereof, according to
 your request thereof made to certain Lords,
 being sent in message to *Callis* under our
 late King *Edward*, and at such time also
 as you were advised by the King of *Castile*,
 that if you could not well keepe it, you
 ought in no sort to take upon you to keepe
 the same, and there were that would have
 undertaken the safe keeping thereof to the
 said King *Edward* and his heires, and you
 have undertaken safely to guard the same
 with no surrender to any, but in manner

as aforesaid, and now have you *John*, without duresse or default of victualls or of Artillery, or of other things necessary for the defence of the said Townes and Castles of *Ardee*, without Commandement of our Lord the King, wickedly delivered and surrendered it to the Enemies of our Lord the King, by your owne default against all plea of right or reason; and against your undertaking aforesaid, The Lords aforesaid in full Parliament adjudge you to death; and for that you were a Gentlemen & Banneret, and have served the late King *Edward* in his warres, and have not proved a leige man to our Lord the King, you shall be beheaded without having other iustice. And for that also our Lord the King is not yet informed of the manner of this Iudgement, the execution thereof shall be respited untill our Lord the King shall be informed thereof, where it is commanded to the aforesaid Constable safely to keepe the said *John*, untill he hath other commandement from our Lord the King. And it is to be remembered that *Geffery Martyn* Clerke of the Crowne, was named in this record, and delivered the same there in writing in this present roll, by his own proper hand.

*Ex. Rot. Parliamen. 42.E.3.M.2.
N. 22, 23. &c.*

William Latimer of the County of Dorset preferred a Petition in this Parliament, in manner as followeth. To our Lord the King and his Councell sheweth *William Latimer* of the County of Dorset, That whereas our Lord the King otherwhiles in the pestilence granted to the Bishop of *Salisbury*, the Wardship of the Mannor of *Dentish*, and *Devillish*, in the said County being in his hands, by the minority of *Robert* son and heire of *Robert Latimer* Knight, together with the marriage of the said *Robert* the son, being then of the Age of sixe yeeres for a certaine summe of money to him payed : which Estate the said *William Latimer* hath held, untill Master *John Lee* then Steward, by procurement of *Thomas Delaber*, sent one *Richard Inworth* Serjeant at Armes in Dorset, to the said *William Latimer*, to bring him to London in safeguard as prisoner with the Intent aforesaid ; that is to say the Monday next before the Feast of the Nativity of Saint *John* the Baptist, in the yeare of our Lord the King that

John Lee
Steward of
the house-
hold.

that now is the nine and thirtieth, and the said serjeant also performed the same, and the said Master *John Lee* did charge, and command the said *William* in the Kings name, that he should not goe out of Town upon paine of a hundred marks, untill he had surrendered the body of the said heire, contrary to the patent of the King, to the said Mr. *John Lee*, and outed the said *William* of his Charter, and moreover made a deed of release, whereupon the said Master *John Lee* commaunded to hold all the Lands, and Tenements aforesaid, untill the Feast of St. *Michael* then next ensuing, for a certain summe of money, and then the said Master *John Lee* leased to the said *William*, the Wardship of the said mannor of *Devillish* rendring forty pounds *per annum*, whereof he was seised as prochein amy of the Infant, *viz. Pulchrain Helto, Whitechurch, Oxford, & Staket*, & let the same to the said *William*, and to divers other persons at his will, by such duresse, imprisonment and arresting the said *William* to the great mischief, grievous dammages and losses, to the great wrong of his simple estate, whereof hee prayeth remedy. To the points of which Petition the said *John Lee* answereth, and saith, that because that the Mannors, Lands, and Tenements of Inheritance

ritance there comprised in the said Petition, were wickedly extended by the Escheator, and leased out of the Kings hand at too small a value, to the great damage and deceit of the King, he caused the same Mannors, Lands and Tenements, to be resumed into the Kings hands, the Wardship of which Mannors, and the marriage of which said heire the King had committed to him.

And likewise the said *John Lee* was put to answer before the Lords, of the affaires in such time as hee was Steward of the Kings household, for that he had attatched divers Gentlemen by their Bodies, some by Serjeants of Armes, and some by other wayes; as *William Latimer* and others, and caused them to come before himsele, as before the Counsell of the King in places where pleased him, out of any of the Kings accustomed places, to answer to divers things, whereof the recognizances ought to appertaine to the Courts of the King.

Item It was debated concerning his authority of Stewardship, that he within the verge had attatched divers Gentlemen of the verge, as *John Goddard*, and others to answer in the Marshallsea of things done out of the verge, and caused some men to be apprehended, and sent to the Tower of
London

London of his owne Authority, without Commandement of the King or his Councell.

It was likewise debated, that *Hugh Lavenham* had appealed certaine Gentlemen of Felony, and that before the Kings Iustices at *Newgate*, and divers Gentlemen arraigned at his suit, whereof some put themselves upon the Country, and some defended themselves by their bodies, and stayed in prison as the Law demanded, and that an *Appeallee* of murder was let goe at large, by Commandement of the said *John Lee* against the Law, and command of the Iustices, and that hee tooke the said *Hugh* by his owne Authority and let him goe at large, and some that were not *appeallees* in roll of the Crowne, at the suggestion of the said *Hugh* were taken and imprisoned, as if they had beene *appeallees*.

It was also affirmed that whereas the said *John Lee* was sworne to the King, and his Councell; he did bargain with Master *Nicholas Louaine*, concerning the Wardship of the Mannor of *Reinham* in *Kent*, being then in the hand of the said *Nicholas* by the under age of the sonne, and heire of *John Stanton* as appeared by certaine evidences, as well by letters Patents under the Kings Great Scale, as others which the
said

said *John* had in his keeping, that very plainly, the said Mannor was holden of our Lord the King in chiefe, as of his Castle of *Dover* and Fort; that the Wardship thereof appertained to the King, to the great damage and deceit of the King against his Oath. Of which points and articles, hee cannot duely and sufficiently excuse himselfe by the *Law*, and therefore was the said *John* commanded to the Tower of *London*, and there to stay as a prisoner, till he had made fine and ranfome to the King according to his will, And it was commanded to Master *Allen Buxall* Constable of the Tower; that he take safe keeping of him, and so departed the *Prelates*, *Dukes*, *Earles*, and *Barons*, and afterwards by the commandement of the King, the said *John* was caused to come guarded from the Tower to *Westminster*, before the Great Councell, and at other times examined upon the points of the Petition; the said *William Lincoller* answered and said: That our Lord the King had committed the wardship of the Mannors, Lands and Tenements of the said heire, untill the Age of the said heire together with the marriage of the said heire; and as intirely hee would tender it into the Kings hands: And then before the said Councell it was agreed

greed and assented by them : That the said Mannors, Lands and Tenements, and the body of the heire aforesaid ought to be released in the Kings hand, and delivered to the said *William Larimer*, to hold as he held of the said *Bishop* untill the full Age of the said heire, doing to the King in manner as it was before the said *John* surrendered the same ; and that the Letters Patents of the King made to the said *Bishop*, of the same ward and marriage, and the Letters of the said *Bishop* of the same Ward, and marriage made to the said *William* ; and surrendered to the said *John* by the said *William* by durity and menaces, bee fully restored to the said *William*, and that the Enrolment of the release to the said *John* by the said *William* of the same Ward, and marriage, also by durity and threatning made as by the said *William* in the Exchequer, be cancelled voyde and holden for nought for ever, saving all times to the King his right in time to come.

*Ex. Rot. Parl. 50. E. 3. mem. 2.
num. 17.*

First, the said *Richard Lions* Merchant of *London*, was impeached and accused by

by the said Commons, of many deceits, extortions, and other evill deeds committed by him, against our Lord the King, and his people, as well in the time that he had beene belonging to the House and Councell of the King as otherwise, during the time that he was Farmor of the Subsidies, and Customes of the King. And more especially for that the said *Richard* by *Con-
vins* had betweene him, and some of the privie Councell of our Lord the King for their singular profit, and advantage, had procured and gotten many Patents, and Writs of Licence to be made to carry great faith and credit. whereby Skins, wools, and other merchandises were transported otherwhere then to the Staple of *Calles*, against the Ordinances and defences made in that behalfe, concerning the same before time in Parliament. And for that he had imposed and procured to bee put upon Wool's, Skins, Leather, and other Merchandises, certaine new Impositions without assent of Parliament, and those Impositions and Taxes without permission of the King, or of the High Treasurer of the *Realme*, having not medlage therewith, and it was said how hee uncertainly tooke ten shillings in one parcell: and twelve pence in another parcell of every sack, &c.

which mounted to a very great summe throughout all the time that hee had bene receiver, or Treasurer : and likewise of another new imposition of foure pence by him made, and put upon every pound of money upon the *Lumbards*, and other Merchants for a discharge by his owne proper Authority, and without warrant and assent in *Parliament*, or otherwise, and the same imposition of foure pence the pound, contrary to piety collected and kept as to the use of our Lord the King, whereof hee payed nothing. And also of divers loanes made to the use of the King without cause necessary, and more especially of one loane which he newly had at *London*, of twenty thousand markes, where our Lord the King was bound to pay 30000. markes, and that by the Counsell of the said *Richard*, and others in the Kings Court, who have covenanted with the receivers to have part of the gaine, and to be parties secretly to the said loane : the said *Richard* taketh the said money, and afterwards gaineth by way of vsury of the King his Lord, (of whose Councell hee was before) a great quantity of money in great damage and deceit to the King, and also many other extortions throughout the *Realme*, and so demeaned himselfe against his Councell,

Treasurer

Treasurer and receiver, concerning the new impositions as otherwise, taking upon him in all the said matters the Royall Power which was horrible to rehearse. And also for that our Lord the King had bene debtor of Record to divers Gentlemen, of many great summes of money; so had the said *Richard* by the assent of other privie complices in the Kings Court, of the said *Covin*, caused many such accounts to be bargained, and compounded sometimes for the tenth penny, and sometimes for the twentieth, or a hundreth penny, and hath procured the King to pay the debts intire, and so by such his subtilties, and for his singular profits as well our Lord the King as the said debts, are wickedly abused: and more especially the Prior of Saint *John* of *Ierusalem* in *England*, to whom the King was debtor of a certaine summe, and the said *Richard* hath had twenty foure Marks thereof for Broakage, to cause the said Prior to have payment of the remnant: and another time of the Lord Steward to whom the King was also a debtor, and the said *Richard* hath had of him by the same manner another great summe of money, and so of many others in great deceit, slander, and villany to the King and his Court. Whereunto the said

Richard present in Parliament, saith, that as to all the said Loane made to the King of the twenty markes aforesaid, hee is altogether without other fault, and further saith, that he at no time had profit or gaine, nor tooke any thing at all of the Loane aforesaid nor of the said money, nor in other things, and that he was ready to prove by all wayes reasonable when they would demand of him: and as to the said Impositions of ten shillings and twelve pence the sack of wooll, &c. & 4. pence the pound of money, he could not cleerely excuse himselfe that he had not so levied and collected and thereof taken money his part, that is to say, 12. pence of every sack of *Wooll*, &c. but that was (hee said) at the commandement of our Lord the King, & at the prayer and assent of the Merchants. who demanded such Licence, and as to the remnants of these Impositions he had wholly delivered them to the receiver of the Kings chamber, and accountable is the receiver in the Parliament. And the said *Richard* first of all collected the same, having a Warrant by which authority he hath before shewed in Parliament, under the Seale of the King himselfe and his Councell so to doe, and thereupon were witnessses produced in Parliament, that our Lord the King had expressed

pressed a day for the same. And some Lords there present in Parliament were, that knew not how or in what manner he was become in such office under the King, (and what is more) that the King knew him not for his Officer, and that amongst other Articles, the said *Richard* made no answer, wherefore the said *Richard* was awarded to prison during the Kings pleasure, and distrained to fine and rancome according to the quantity of his trespassse, and that he looke his freedome of the City of *London*, and bee no more in Office under the King, nor approach to the Kings Court or Councell, and thereupon another time the said *Richard* was sent before the Lords of Parliament, where it was said to him that it seemed to the Lords that his offences were so great and horrible, that hee had not sufficient wherewith to make satisfaction, and forthwith the said *Richard* submitted himselfe into the favour of the King, his body, his Lands, Tenements, goods and Chattells, and willed and granted that his body goods and Chattells should bee at the Kings will to give, and as to the Extortions done by the said *Richard*, or his Deputies from the time that hee was Farmer of the subsidies, or Customs as before-said, it is ordained in Parliament that

good Inquiry bee made by sufficient Gentlemen in all the Ports of *England*.



Ibidem N. 21.

Tact. Lat.

Item *William* Lord *Latimer* was impeached and accused by the vote of the said Earles of deceits, extorsions, grievances and other mischiefs by him, and others of his faction and Covin, during the time he stayed as well under our Lord the King in *Brittaine*, when he was in Office with the King, as otherwise in *England* the time that he was Chamberlaine, and of the privie Councell of the same our Lord the King. First of all concerning that when the said *L. Lat.* had bin long Captain of *Becherell*, and Officer of the late King *Edward* in *Brittaine*, if before or during the peace or truce it was committed. And thereupon it was proclaimed and published under the King through *Brittaine* that no English man, nor other Forreigner shall take Wines, Victualls, nor other things of any persons, Towns, Castles nor of others, except they pay presently for them nor shall

shall they take or ransome any Person, Town, Fortresse or other place, upon paine of what they may forfeit, notwithstanding all which the said Lord *Latimer*, and his Lieutenants and Officers caused to be taken by wrong and violence, of diverse Gentlemen of the Countrey, much wines and victuals to a great value, without paying any thing, and likewise ransomed many by oaths, and in taking and receiving ransoms unto the summe of 4 millions, and 3 thousand pounds : whereof our Lord the King enjoyed nothing, to the great damage and villany of the King and oppression of his people and the said parts, and against the Proclamation and defence aforesaid, as in a letter made and sealed with the seales of many Lords of *Brittaine* called *Ragman* and sent into *England* to our Lord the King aforesaid more at large appeared, but the said *Ragman* could not be found in any sort, nor any man knew how to say in truth, what become of it, and yet he at another time was accused thereof, that he had taken at *Becherell* and *Plimoyson*, from thence unduly 153 l. w. of gold, whereof the King had never any part nor any restitution made thereof, and the parties from whom those summes were taken, preferred a Bill in Parliament in forme as followeth.

It is to be remembered that the proofes of parties that were ransomed at *Becherell* and *Plymoison* during the time of Truce, have paid so much to Master *John*, port-Constable of *Becherell* for the Lord *Latimer*, and to *William* his sonne, and to *Hugh Middleton* Receiver of the said Town or to the Lord *Latimer* departed out of *Brittaine*.

The yearly summe 40 Franks.

And likewise the said Constables *William* and *Hugh*, have received of the ransomes of such as were wont to be ransomed during the Warre more moneys than would have well payd all the Souldiers of the said Town.

The summe 50 Franks.

And likewise the said Countrey of *Brittaine* have paid to the said Constables *William* and *Hugh*, for the death of divers Gentlemen liege men of our Lord the King that were killed upon the land of *Brittaine*.

The summe 30 Franks.

And likewise the said Constable, and *William* his son gathered upon the Countrey of *Brittaine*, to send Monsieur *Gages* from

from *Plimouth* dates to *England*,
The summe 12 Franks.

And likewise the said *William* for that he lost 20 Marks in the Isle of *Garnesey*, in a Ship, put a fane and ranfome upon the said *Becherell*.

The summe 1000 Franks.

And likewise *Robert Ravenstons* boy, had stollen a half salt-seller of silver, and therefore the Land of *Brittaine* was ranfomed.

The summe 2 Franks.

And likewise the said Constables *William* and *Hugh* Receivers of the said Town, had received divers times for victuals sold as salt, wine, beefe and other commodities, to the summe of 1000 Franks, to the great losse of your poore liege-men, and to the Town of *Becherell*. For by these extortions which they had borne and sustained by the horrible necessity of the poore people, and likewise of the Gentlemen, was the said Town lost. Wherefore they beseech our Lord the King and his Councell, to cause the said Constables *William* and *Hugh* to come and answer the aforesaid receits, so that our Lord the King may be served of
that

that which belongeth to him, and that your poore liege-men that were in the defence of the said Town may be paid, their wages for the time that they were in the said Town, if so it be your pleasure.

And likewise the said Lord *Latimer* was impeached by the Commons of divers loanes, made to the use of the King without cause necessary, to the great losse and and grievous dammage of the King, and more especially of a loane that was made of late to the use of the King, by the counsell of the Lord *Latimer*, *Richard Lions* and others of his covin of 20 thousand markes, where our Lord the King was obliged to his Creditors in the said Case to pay again 30 thousand markes, and that was done by covin of the said Lord *Latimer*, and others that were privy with the said Creditors, to have part of the said Gaine, and to be parties to the said deed, or without answering the said loanes; for it was furnished in speciall, that the said money was the Kings own, taken out of his Chamber or Treasury, and also the proper money of the said Lord *Latimer* and *Richard Lions*, who appeared as if oppressed by the said loane, and also for that by like Covin between him and the said *Rich. Lions* for their singular profit & gaine he had procured and coun-
felled

killed our L. the King to grant many Licen-
 ces by Patents and Writs, to cause a great
 quantity of Wools skins, and Leather and
 other things, to be carried to parts beyond
 the Sea, other then to *Calis*, against the Or-
 dinances and defences made before time,
 in that behalfe, to the destruction of the sta-
 ple of *Calis* and of the moneyage there, to
 the great damage of the King, and of the
 Realme of *England*, and hurt of the Town
 of *Calis*; and likewise that by such covin
 done betweene him and the said *Richard*
Lions for their singular profit, he had cau-
 sed to be put upon the wools, skins, leather
 and other marchandises of the Staple, di-
 vers new Impositions. That is to say of e-
 very sack of wooll passing other where
 than to *Calis*, by such Licence 11 s. more
 against the Statutes and Ordinances the-
 reof made, and also for that by his singular
 profit and ill government betweene our
 Lord the King and his Realme, they have
 had and suffered many other grievances,
 losses, dammages, and villanies with-
 out number, as the losse of the Towne of
S. Saviour in *Normandy*, &c of the said place
 of *Becherell*, and of other Fortresses which
 might have been well saved and kept, if the
 King had been well counselled.

And also concerning certaine Spies and
 other

other felons taken and imprisoned by the King, and after delivered by the Lord *Latimer*, of his own proper authority, without the knowledge or pleasure of the King, taking upon him, and incroaching notoriously in doing these things upon the Royall power.

Whereunto the said Lord *Latimer* then present in Parliament said: That saving to him what ought to be saved to him; as to one of the Peers of the Realme, as well in giving of Judgement as otherwayes in time to come, if please our Lord the King, and the Lords assembled, he might be put to answer to him, which in especiall would accuse him of any of the matters aforesaid; and afterwards for that no especiall person would openly accuse the said Lord of the same things in Parliament, whereof the Commons would maintain the said Accusations against the said Lord *Latimer*, in accusation of his person and Declaration of his fame, he said, that true it was, that hee was Captain of *Becherell* and that such a Peace was made in *Brittaine* under the King, and that an inquiry was made and put in writing & sealed with many Seales of the Lords of *Brittaine*, and sent to our Lord the King in *England*, which enquest is there called *Ragman*, but he saith that
this

this Enquest was made by the *Brittons* and *French*, which would not have our Lord the King, nor any *Englisman* for their Governor, and falsly to have destroyed the said Lord, and he saith now (as other times he hath said) to our Lord the King when he was in like manner impeached thereof before the King himselfe, that all the profits, which he at any time received by himselfe or otherwise in *Brittaine*, passed not in all things the summe of 10000 l. accounted in the same summe of 10000 l. all the profits which he received for the ransome of Viscount of *Roane* and of other prisoners which he tooke at the Battaile of Crey and this he is ready to prove by all reasonable wayes that one of his estate and degree ought to do, and he saith, that it seemeth by the Law of Nations, that the said *Ragman* is not to be allowed and that it was done by the enemies of the King and Realme, (as aforesaid) and likewise made out of the Realme, and that therefore all men ought not to hold him of the lesse credit or Reputation. And soon after the Commons having this answer of Submission prayed the Lords of Parliament in behalfe of the King, that the 10000 l. execution be had forthwith against the said Lord *Latimer*, as of a thing past by the said Submission thereof

thereof as he had knowledged at another time, when he was impeached thereof, and that the said Submission be made by him; as it ought to be, nor that any remonstrance or agreement be made to the King, nor pardon, nor other thing gotten, by which he may be discharged. And the Lords answered, that the said Answer should be reported to our Lord the King, and thereupon right shall be done for the King and as to the said Bill preferred afore in Parliament concerning such men as he made his Deputies or Lieutenants at *Becherel* and *Plumoyson*, the said Lord *Lasimer* saith, that hee is altogether innocent and without blame, even at the time that the said *Ragman* was so made and sent to our Lord the King. And the Lords answered thereunto, that they would take advice of the Kings Councell, and thereupon right should be done on every part. As to the loanes made to the use of our Lord the King without necessary cause, he answereth and saith, that he knew of none without cause very necessary and greatly behoovefull. And to that, that the intent is submitted to be false covin or other disloyalty for profit, or to have part, he saith, that he is altogether innocent and not guilty; and that he never delivered nor tooke any money or other thing

thing of the King, nor of any other to make the said pretended Loane: and that he was ready to prove by all wayes that a man ought to do. And as to the Patents and Writs made and granted for the passing of woolls, skins, leather, &c. otherwhere than to the Staple of *Callis*, he saith, That those licences were commenced before his time, with the King as well at *Genoa* and *Venice*, as other where, and further saith, that if nothing thereof had been done till his time, the same had not been done, nor was persued by his counsell only but by him with others, and that these accrewed thereby by vertue of the Kings Grant, great profit to the King, Whereof he was answered in his chamber. And as to the new Impositions, the same were never put upon the woolls, skins, and leather by him of late, nor upon the Countrey in any part, but only the subsidies thereof granted in Parliament, and that at the instance and prayer of those who demanded such licences, which payed voluntary and without any compulsion 11 s. the sack, that is to say, 10 s. to the use of the King, and the 12 d. to the use of the Clerks writing and persuing the said Licences, which moneys he hath not yet put in certain; and further saith, that he took nothing

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therof to his own profit by himfelfe nor any other, and that he is ready to prove by all reasonable ways and thereupon it was witnessed in Parliament by M. *Richard Scroope* Chancellor. late Treafurer of our L. the King, that *Wil. Walworth* of London in time when the faid loane was made to the King of the faid 20 thoufand marks, the faid *Wil. Walworth* profered in behalfe of himfelfe and his companions marchants of the faid Staple of *Callis*, to the Lord *Latimer* to make a loane to our Lord the King of 10000 l. without repaying any thing for increafe by utury or otherwife by covenant fo that they might be repayed the faid 10 thoufand pounds in their proper hands of the Subsidies due to the King, of their wooll, &c. then next to be paffed to *Callis*, and that the King fhould covenant and grant that no fuch Licences fhall be henceforth granted to carry woolls, &c. out of the Kingdom, further then the Staple of *Callis*. To which the faid Lord *Latimer* answers and faith, that he had no fuch proffer of them and the other affirming the contrary, wondered that the faid *Wil. Walworth* fhould make fuch a proffer. And as to the loffe of the faid Townes and Forts, and the deliverance of fome spies or felons fo imprifoned the faid Lord alfo faith that he is not

not guilty and that he will prove & avow by all reasonable ways that he ought to do. And therupon many other words and reasons shewen and pleas as well in full Parliament as otherwise before the Prelates and Lords only as well for the part of our Lord the King, as for the part of the said Lord *Latimer*, and many examinations in print as well as otherwise, after full deliberation thereof had, Iudgement was rendered in Parliament against the said L. *Latimer* in these words that follow.

For that the said Lord *Latimer* is found in full Parliament in default by his singular government and counsell against the profit of the King and his Realm. That is to say, of divers loanes procured unto the Kings losse without necessary cause, and also of Patents made in destruction of the Staple of *Calis*, and also of divers Impositions put upon wools against the Statute of Parliament in that behalfe lately made, he is awarded by the Prelates and Lords in full Parliament to prison, to be kept in Ward of the Marshall, and to make ransom at the Kings will, whereupon the said Commons beseech the King for that he is found in such defaults by his singular Counsels, he being in all Offices of the King and especially one of the Kings Privy Counsell

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throughout all that time it was requested that the King would bee pleased to grant that the said Lord might go under baile, whereupon the King willed and granted that the said Lord *Latimer* should find in *Parliament* certain Prelates, Lords and others during the Parliament to have his body before the King and the Lords to answer further to the Articles wherof he was so arrested under a certain paine and forme comprised in a Schedule annexed. And under such surety, the Marshall of *England* let him go at liberty.



Ibidem N. 31.

I*tem* *William Ellis* of great *Jermonth*, is impeached and accused in this present Parliament in divers manners first, viz. by the surmise of the Commons made to him, that the said *William* whilest he was Farmer to our Lord the King of his pety Customs in the Port of great *Jermonth*, and Deputy of *Richard Lions* Farmour of the Subsidies of 6 d. the pound, granted by our Lord the King of all Marchandizes passing out of the Kingdome, and entring in the
same

same for the safeguard of the Sea, and of the Marchants passing by Sea, and of their Marchandize, he did take by him and his servants, as well *English* as of Strangers in the said Ports and members thereof, by way of extortion, by colour of his said Offices, many great summes of money, and otherwise that he ought not to have done, in great prejudice, slander of the King, and dammage of the said Realme, and to the oppression and wrong of the Marchants aforesaid.

And the said *William Ellis* present in Parliament, saith, that true it is, that he is one of the Farmours of the said petty Customes of the Marchants passing and comming, saving the purport of the Commissions thereof made, without that that he tooke the same, or caused any thing to be taken by extortion, more than was clearely due to the King, and that hee was ready to prove to the King: by whatsoever way way hee ought to do, and the Commons replying said, that the said *William* confessed to them in the Common assembly in the Chapter house within the Abbey of *Westminster* the day before, that he had received the said 37 l. & prayed that against his owne acknowledgement so openly and before so

many persons he might not at other times be received to say the contrary. And therupon the said Commons brought in Parliament *John Borild & Willi. Cooper of Leinstofe* and two others that affirmed they had payed to the said *William Ellis* by the said Marchant of Scotland, the said 33 l. for full Information of the matter aforesaid, which *John* and *William Cooper* being thereof examined in Parliament acknowledged that they were obliged to our Lord the King and to the said *William Ellis* by their obligations or letters obligatory in the said 33 pounds together with the said *Scot*, which was their host, and payed at a certaine day for the said Subsidy of 6 d. the pound due of all the marchandizes in the said ship and the truth was that the said *Scot* discharged nothing of all the matters aforesaid, at the day of payment, but that they payed to the said *William Ellis* the 33 l. and therupon the said Commons prayed Judgment upon the same said *William Ellis* who said, that although that he had received the said 33 pounds of *John Borild*, and of the other aforesaid he received it not but as supposing the same a gift, and that without condition, and that as often as concerning the same hee should have a Writ or other Commandement of our Lord the King he would

would make deliverance thereof, which otherwise he would not do voluntarily. Item, afterwards the said *John Botila* and *William Cooper* did put in the Bills in form which followeth. To our Thrice doughty Lord the King and to his Sage Councell, Sheweth *John Botild* of *Lewistoft* that the munday next after the *Ascension* of our Lord, in the yeare of the raigne of our Lord the King that now is, the nine and fortieth that there was chafed by tempest in *Kirke la Rode*, one Cockboat of *Gotham* in *Pruse*, whereof the Masters name was *Henry Luce* charged with divers Marchandizes of the Marchants of *Pruse*, that is to say, Freeze, and other marchandizes. And the same day *William Savage* Clerke and servant to *Wil. Ellis*, by commandement of the said *William Ellis*, tooke of the said Cockboat for the marchandizes (neither discharged the same from paying custome then) 17 nobles and a last of leather, the price of the last 10 pounds 16 s. at *Lewistoft* before the boat went out of *Kirke la Rode*, to the great danger of the said Marchants. And because that the said *William Ellis* knew that *Wil. Cooper* would come to this Parliament and shew this grievance & others in aid of the Marchants, and also set forth how the great Charter *Hinc. Ang.* might be

amended in aid of the whole Realm, the said *Wil.* by his false suggestion, caused the said *Wil. Cooper* to be arrested and cast in prison, for the space of 3 weeks : May it please our thrice doubty L. the King & his sage Council, to make remedy thereof in worke of charity. Which Billes passed in abience of the said *Wil. Ellis*, he saith, that as to the said 17 nobles and skins, called leather, he could not sweare for him, nor for any of the said Marchants of *Pruse*, nor other whatsoever, and the said *John Botild* and *Wil. Cooper* affirming the contrary; at last it was said by the Lords in Parliament, that those Billes touching the entry of the leather, were now in the Kings Bench for Triall. And as to the said Imprisonment, the said *William Ellis* saith, for that he was warned in coming to *London* by many sufficient persons, that the said *John* & *Wil. Cooper*, with 36 other persons of *Lewist.* did lie in wait for the person of the said *Wil. Ellis* at *Wickham* market in *Suffelke* and going there in the high way of *Gerneith* from *London*, at such time as the said *W.* was going towards *London*, carrying with him a great summe of the K. money of the Customes & Subsidies aforesaid, and for that the said *W. Ellis* is awarded to prison to make fine & ransom to our said L. the K. & it is awarded to either
of

of the said *John* and *William Cooper* twenty pounds for their dammages, and dis-
pences during their said Imprisonment,
had and suffered. Also it is awarded that
the said Commissions be made to sufficient
Gentlemen, to enquire of *William Ellis*,
and of all others Deputies of the said *Rich-
ard Lyons* throughout the Realme.

Parl. Anno 1. R. 2. n. 32. & 33.

Item *William Fitz-Hugh* Goldsmith of
London preferred his bill in Parliament,
in form as followeth: To our thrice excel-
lent & thrice noble Lord the K. and to his
thrice Honourable and thrice sage Councell
shewen the poore Commons of the my-
sterie, and company of Goldsmiths in the
City of *London*: that *John Chichester*, *John
Botesham*, and many other Gentlemen,
and rich goldsmiths of that mystery in the
same City, by their compassing and sub-
till deviling deceitfully have caused many
of the said company to enseale severally di-
vers obligations, and those who refused
so to doe were taken and imprisoned and
in danger of death by many grievous
threatnings of the said goldsmiths, who
had sealed severally divers obligations as
their poore companions had done before,
to

to cause that the said poore Goldsmiths should not buy, nor sell to any Merchant Cutteller, Jeweller, Vphouster, nor to any other forraigner nor Denizen, any goods of their working except they sold the same at a treble value, and that none of them should carry gilt, nor any other thing of gold or silver to any Ladie or other person to make profit thereof, and if they did that the paine comprised in the said Obligations should incurre upon them, as before the major Sheriffe and Aldermen of the said Citie, as by the confessions of the said rich Goldsmiths it was proved, whereupon it was unreasonably debated, so that it was put by good mediation and advice to the said Maior, and many of the Aldermen of the City: the said rich and poore Goldsmiths put themselves in Arbitrement of three good men, for a finall accord of all the debates and quarrells betweene themselves, which Arbitrators assented upon certaine points rehearsed to the parties aforesaid, and ordained the same points to be affirmed and inrolled in the Parliament for ever, and thereupon the said parties were released. But notwithstanding this Agreement the said rich Goldsmiths would not assent, nor suffer that the said points bee inrolled and holden as the said Arbitrators

Arbitrators adjudged: And furthermore by their procurement many mischiefs doe from day to day arise to the wrong of the said poore Commoners so farre as they are like to be undone (which God defend) and have purchased likewise a new Charter against the said agreement, to the great decay and hurt of the said poore Commons: may it please you (thrice gracious Lords) to ordaine and command that the said Accord be affirmed, and holden finally for good, and that the said Charter and other things, tending to the prejudice and losse of the said poore Goldsmiths, be made voide for Gods sake and in the worke of Charity. And thereupon the said *John Chichester* and *John Botesham*, and many other Goldsmiths of *London* came in Parliament, and having heard the said Bill, it was forthwith demanded of the said *William Fitz-Hugh*, if hee would maintaine the said Bill, and finde pledge to doe, and answer that which the Law demandeth, who said that he would doe so, but afterwards he could not bring in his surety, nor pledge to answer the said Bill, so was the said *William Fitz-Hugh* commanded to the Tower by the award of the Lords in Parliament.

Ibidem

Alice Pierce **I***tem* the said 24. day of *Decemb:* during yet this present Parliament. *Alice Pierce* was caused to come in the same Parliament before the *Prelates* and Lords, for to answer certaine matters, which by Letters should bee surmised against her in the Kings name, and thereupon by commandement of the *Prelates* and Lords of the said Parliament, Master *Richard Scroppe* Treasurer, Steward of the house of our Lord the King rehearsed in Parliament, in the presence of the said *Alice*, an Ordinance made in Parliament holden at *Westminster*; the monday next after the feast of Saint *George*, the yeare of the reigne of the King Vnckle of our Lord the King that now is, the 50. in these words, For that complaint is made to the King that many women have persued in the Courts of the King, diuers busineses and quarrells by way of maintenance, and to have a share: which thing displeaseth the King to defend, and that henceforth no woman shall doe so; and more especially *Alice Pierce* upon paine of whatsoever the said *Alice* may forfeit, and to be banished out of the Realme, and after this rehearfall made the said Steward surmised to the said *Alice*; that it seemed to the

the Lords of Parliament that she had incurred the paine comprised in the said Ordinance, and had forfeited against the said Ordinances in certaine points, and more especially in two, viz. that she stayed Master *Nicholas Dagworth* Chancellour, when he was ordayned by the Councell of the late King to goe into *Ireland*, for certaine urgent busineses which should have bene profitable to our late King, and his Realme; the said *Alice* after the said Ordinance made as aforesaid, perswaded the said King in his Court at *Havering*, that at her singular persuit and procurement, the said *Nicholas* was countermanded and his voyage stayed from all that Island, to the great damage of our said late King and his Realme.

Item, That whereas *Richard Lions* for misprisions whercof he was convicted at the said Parliament, holden the said 50. yeare of our late King *Edward*, submitted himselfe in the Parliament into the favour of the said King (that is to say) his Body, all his Lands and Tenements, and he gave some of them to the Earle of *Cambridge*, and some of them to Master *Thomas Woodstock* now Earle of *Buckingham*, for terme of their lives: the which our late K. after having pitie of the said *Richard*, was willing
by

by the assent of his Councell to shew him favour, and to pardon him the Imprisonment of his body, and to restore him to certaine of his Lands, goods, and chattells aforesaid, which pardon seemed to our late King and his Councell to be a grace sufficient, notwithstanding the said *Alice* so perswaded the said late King in his Court at *Sheene*, that by the singular persuit, and procurement of the said *Alice*, our late King *Edward* granted to the said *Richard*, all his Lands, goods, Tenements and chattells aforesaid, together with the said Tenements which hee had given to the said Earles for terme of their lives as before said, & amongst the same pardoned the said *Richard* 300. l. of certaine Arrerages due by the said *Richard* in the Exchequer, and also granted him a thousand marks of his Treasure to bee received of the said Ladie, which persuit and procurement ~~are~~ contrary to the Ordinance aforesaid. And the said Steward demanded of the said *Alice* how she would excuse her selfe of those Articles? which *Alice* did answer and say, that she was not guilty of those Articles, and that she is ready to shew and prove by the Testimony of the said Master *John Ipre* then Steward of the said King *Edward*, & *Williams Street* then controller of his house,

Allen

Allen Buxall Knight, and *Nicholas Carreim* Keeper of the privie Seale of the said King and others that did then belong to the said King, and afterwards from him to the time supposed, that she committed forfeiture, and that they can discover the truth. And thereupon day is given unto the said *Alice* untill Wednesday next, by the *Pr-lates*, and Lords of the Parliament, and it was ordained and assented that those Articles shall be tried by witneskes and by enquest of those that were of the household of the late King *Edward*, whereby the truth may better be knowne, and thereupon were certaine persons examined before the Earle of *March*, the Earle of *Arundell*, the Duke of *Lancaster*, the Earle of *Cambridge*, and the Earle of *Warwick*; that is to say first Master *Roger Beauchampe* late Chamberlaine of the said King *Edward*, sworne upon the holy Evangelists, and diligently examined touching the Countermand of Master *Nicholas Dagworth*, and upon the other Article concerning the said Kings pardon, and favour to *Richard Lyons*, saith upon his Oath, that in presence of the Ladie *Alice Pierce* a Bill was delivered to him, which Bill he tooke, and after hee had understood that the same contained the calling back of Master *Nicholas Dagworth* from

from *Ireland*, for that he was an enemy to Master *William Winsor*, to that which the Bill supposed he answered, that hee durst not prefer it to the King for that the Counsell had ordained the contrary, and the said *Alice* requested him and said that he might safely deliver it to the King, and presently the King demanded of what matter they discoursed, and the said Master *Roger* answered of a Bill that doth containe such businesse, & forthwith when the King had understood the Bill, hee answered that the Petition was reasonable, and when Master *Roger* replied the Councell had ordained to the contrary, the King answered that he himselfe was agreeing, and that yet it seemed the Bill was reasonable, and commanded him that the said Master *Nicholas* be caused to be called back, which was likewise done, but what day or moneth it was he remembreth not, and as to the matter of *Richard Lions* the said Mr. *Roger* saith, that he was Chamberlaine but an houre, and so knoweth nothing more then he hath said.

Item Master *Lanc.* diligently examined before the Committees saith, that he came one day to *Havering*, and found the Ladie *Alice Pierce* there, and forthwith Master *Roger Beauchampe* shewed him Bills, and after

after the King understood the matter, hee
 said thus that it seemed not reason, that one
 enemie should bee judge of another, and
 the said Duke answered that hee was come
 betweene them, but it was so that the said
 Master *Nicholas* was lent for the profit of
 the Land, and of all the Realme: and there-
 fore it was ordained before the King that
 the said Master *Nicholas* and Master *Will-
 iam* doe come before the Councell, and if
 the said Master *Williams* could prove any
 cause for the Enmity betweene them: that
 then the said Master *Nicholas* shall not goe
 if he well can prove such enmity; other-
 wise the Ordinance of the Councell made
 in that behalf shall stand in force: to which
 thing the King did well assent for that
 time, but forthwith the King was assailed
 in his chamber by the said Ladie *Alice*, and
 there came in the said Duke and prayed the
 King that he would not suffer in any sort,
 that the said Mr. *Nicholas* bee called back,
 who answered, that it should bee no other-
 wise then it was afore ordained before the
 King, and when hee came in that behalfe
 to crave a testimoniall favour, hee could
 not obtaine it, and the next morning when
 the said Duke did his obeysance to the
 King in his bed. The King himselfe com-
 manded upon his blessing that he suffer not

in any manner that the said Master *Nicholas* goe into *Ireland*, The Ordinance thereof made the day before to the contrary notwithstanding, and likewise the said Master *Nicholas* was countermanded, and as to the Article of *Richard Lions*, hee saith in his conscience that the said *Alice* was principall promotrix of this said businesse: but he was not present when it was done.

Item Master *Philip de Bath* sworne, and diligently examined, saith, as to the Article of Master *Nicholas Dagworth*, that he heard not the said Dame *Alice* speak to the King of the same matter, but hee heard in the Kings house the said Ladie *Alice* make a great murmur and say, that it was no reason nor Law, that the said Master *Nicholas* who was an enemy to the aforelaid Master *William*, should goe into *Ireland* to enquire, and doe Iustice against him, and more hee knowes not how to say in this matter. But as to the Article of the said *Richard* hee saith, that he was one day at *Sherne* when the said *Richard* was brought before the King, and that he was called into the Kings chamber to heare those things that were to be done, and when he understood a little of the matter he would not stay in the chamber; and further he saith that there were then in the Kings Chamber, the said Lady
Alice,

*Alice, Nicholas Currein; Master Allen Bux-
all, Walter Walsbam* and many others; & saith that she was in the Court; and that the said Lady *Alice* was an aider and friend in the businesse.

Item Nicholas Currein sworn as aforesaid: and diligently examined saith, that he was commanded by the King to come to *Sheer*, & there he found *Rich: Lions*: which *Richard* and *Nicholas* were commanded to come before the King to his bed, and there they found the Lady *Alice Pierce* sitting at the side of the bed: and there it was shewen that the King would pardon the said 300. l. to which he was yet bound to the King, as of the arrerages of his accompt in the Exchequer, and also the King would give to the said *Richard* 1000. markes of his Treasure, and further would make full restitution of the Tenements which had bin given to his sons of *Cambridge*, and *Woodstock* as before said. And thereupon the King commanded the said *Nicholas* to say from him his pleasure to his said sonnes, but he saith that hee remembreth not if that matter were showne at that time before the King, by relation of any other person, or by the Bill of the said *Richard* there read, or otherwise by the said *Richard* himselfe: the said *Nicholas* remembers him-

selfe very well : that he requested to come before the King, who caused to come from behind the curtaines Master *Allen Buxall*, and others Knights, and Bishops which then were there to testifie that which the King had said to the said *Nicholas* in the said commandements and so it was done, and all the commandements of the King were rehearsed in presence of all those men.

And as to the matter of Master *Nicholas Dagworth* he saith, that he knowes nothing but that Master *Roger Beauchampe* sent him to countermand the said Master *Nicholas*.

Item Master *Allen Buxall* sworne in like manner, and diligently examined saith, that one day at *Sheen* after the last Parliament he was called to the King, where hee found the Lady *Alice Pierce*, *Nicholas Currein*, and many other Knights, & Esquires which came with him, and there it was rehearsed by the said *Nicholas*, how the King had shewed favour to *Richard Lyons* of his Tenements, which were holden by the Earle of *Cambridge*, and Master *Thomas of Wrostock*, and had given him a 1000. marks of his Treasury : And as to that which was don, the said Dame *Alice Pierce* prayed the same Mr. *Allen*, that hee would
declare

declare to the said Earles the Kings will,
 & his chargings upon the blessing of their
 father, to cease to extend the Tenements of
 Master *Allen*, and that they doe it volun-
 tarily if the King commanded them to doe
 so. And forthwith at the instance of the
 said *Alice* the King commanded, and it
 was also done. And as to the Article of
 Master *Nicholas Dagworth* he saith, that he
 knoweth nothing but that hee heard the
 said Lady *Alice* say many times, that it is
 not reason nor Law that the said Mr. *Ni-*
cholas who was enemy to Master *Williams*
Windsor, should bee sent into *Ireland* to
 make Inquisition of him or against him.

Item, Will: Street late controller of the
 Kings house, tworne in like manner, and
 diligently examined saith, that he was one
 day at *Havering*, when *William* & *Yorke*
 spake to the K. of *William Windsor*, in pre-
 sence of the Lady *Alice Pierce* for to disturb
 the passage of Master *Nicholas*, and the said
 Lady *Alice* said, that it was not reason that
 one enemy should bee Iudge of another,
 And moreover the said *William Street* saith
 in his conscience, that the said Lady *Alice*
 was principall and motrix of the said cause,
 as he verily beleeves. And as to the Article
 of *Richard Lyons* he knowes nothing before
 it was all finished.

Item, John Beverill sworne in like manner and diligently examined saith, that he heard not at any time the said Lady *Alice* speake to the King concerning neither the one Article nor the other, and that she kept her selfe well from him, that she spake nothing in his presence, but hee thinks in his conscience that she was the promotrix in the said businesse, for hee knowes no other which could have followed that matter, and notwithstanding they were caused to come before the said Duke, and the said Earles, Mr. *Robert Beauchampe*, Master *Allen Buxali*, Master *John Burle*, Mr. *Philip de la Page*, Mr. *John Foxley*, and *Thomas Barre Knight*, *Nich: Currein*, *John Beauchampe of Holt*, *John Beverly*, *George Felborough*, *John Salisbury*, *William Street*, *Pierce Cornewall*, *Thomas Lurden*, *Lolvin Legat* Esquires of the house of the said late King *Edward*: which doe say upon their oathes that the said *Alice* was principall promotrix to the said King, at his Court at *Havering*, about the Feast of *All Saints* in the 50. yeare of his Reigne concerning that Article, touching the revocation of the said *Nicholas Dagworth*, and for that she was committed.

Item as to the Article touching *Richard Lions*, they know well that the said *Alice* was

was well willing, counselling and aiding to the said busines prevailing with the said King at *Sheer* in the moneth of *May* last past, and for that she is found guilty in the same impeachment, and the Lords of Parliament, that were at Parliament when the said Ordinance was made, remember, that their intention was witnessed, and bearing the force of a Statute, and by the generall words (whatsoever the said *Alice* may forfeit) extend as well to the forfeiture of Lands and Tenements as goods and Chattells and all other possessions considering the damages and villanies by her done to the King and to the Realme for that it was in effect to restraine, and punish the said Lady *Alice* only (wherefore it is awarded in this present Parliament, that the said Ordinance have the force and effect according to the intent aforesaid, that she be banished out of the Realm, and her Lands and Chattels, Tenements and possessions as well in demeane, as in reversion be forfeited to the King, and seised into his hand and it is the Intention of the King, and of the Lords, & of the Ordinances assented to in the same Parliament, that all the Lands whereof she hath taken the profit, or bargained to her own profit be forfeited, because of the fraud which may bee presumed in which shee is

most abounding, for which cause the same shall be forfeited to the King, and seised as the other Lands. And it is the Intention of the King and of the Lords, that this Ordinance and award made by the King for such odious things in this especiall case, which may extend to a thousand other persons shall in no other case but this bee taken in Example. Likewise it is ordained and assented, that notwithstanding the said forfeiture if she purchased any Lands or possessions by force or dures; Bee it by fine or by deed in *pais* or deed inrolled, or otherwise, that the purchase bee holden for nothing, and that the parties which perceiv themselves aggrieved may have remedy by proceffe in Chancery, and by advice of the GRANDIES of the Councell right shall bee done to the parties; and restitution made according to the case demanded, so that the purchases made *bona fide* be not made voide nor disannulled by any manner of way. *Et istud rotulum sic factum; & scriptum tradidit & liberauit Edmundus Bradwell Clericus de Corena &c. hec in Parlamento assig. Clerico. Parliamenti.*

Ex

Ex. Rot. Parliam. Anno 7. R. 2.

N II.

Item It is to be understood that the 23. Cavendish
against pool
Chancellor.
 day of May, there was present, one *John Cavendish* of London prisoner in this Parliament before the Commons of England, in their Assembly in presence of some Prelates, and Lords temporall there being, and afterwards before all the Prelates and Lords being in this Parliament, and prayed the Lords, that for Gods sake they would hasten for the peace, and safety of his life that hee may have iusticient surety of the peace of those whereof hee complained, and especially demanded surety of the Peace of Master *Nicholas de la Poole* Chancellor of England, and this request to him was granted, and thereupon by Commandements of the Lords aforetaid, the said Master *Nicholas* there present found Sureties to be peaceable towards the said *John*, that is to say the Earle of *Stafford*: and the Earle of *Salisbury*: and the said *John* rehearsed how at the last Parliament hee had made per suit by one *Savill* against *Gibbon*, *Mansfield*, *Robert de Parry*: *John Hawkins*, and WILLIAM HORSMAN to have Restitution of certaine goods,
 and

and marchandizes of great value left upon the Sea, in default of the said *Gibbon, Robert John*, and *William* at the time when he had undertooke the safeguard of the Sea; and of the marchandizes passing and coming from Sea, for the time against all Enemies out of the power Royall, which Bill was endorsed in the said Parliament he confessed, and acknowledged in the *Chancery* for to discontinue and determine the matter, by composition according to Law and reason.

And further the said *John* saith, that hee being a Fishmonger hath preferred at the same Parliament his Bill, for that a Clerk and familiar of the *Chancellor* whose name was *John Otter*, undertooke that the said Fishmonger should the better have good helpe in his case of the said *Chancellor* before whom his busines depended, who was to do Iustice to high and low: which Clerk demanded copies of his Bills, and demeaned the whole businesse that he delivered to him, which when hee had viewed and understood, he promised that for 40. pounds to the use of his said Lord, and 4. pounds to his own proper use, hee should have his busines well & graciously dispatched by his Lord without difficulty, & upon this promise the said *John Cavendish* was well agreed, and

& granted to pay him the said 44. l. in mā-
 ner as he should demand the same, but for
 that he said he had not the sum ready in his
 hand to pay, he obliged himself voluntarily
 to make payment well & lawfully at a cer-
 tain day, & so it was done, and afterwards
 the said Fishmonger delivered to the Clerk
 certain quantity of Herring, Sturgeon, and
 other fish to the value of 9. or 10. marks, to
 the use and behoofe of the said *Chancellor*, in
 part of payment of the 40. l. aforesaid, and
 3. ells of Scarlet, which cost him 32. s. he
 delivered to the said Clerke in part of pay-
 ment of the said 40. l. which he promised.
 And further the said *Cavendish* saith, that
 although he had don so much and promised
 to give more to one person and a nother al-
 wayes, yet he found not long friendshipp, aid
 favour, nor succour in effect in the person of
 the said *Chancellor* in the said suit for all his
 cost, and also he saith, that a good part of
 all sorts came with him to the house of
 the said *Chancellor*, to discourse of his
 matter where hee found there his Ad-
 versaries before him, where hee encount-
 red them in presence of the said *Chan-
 cellor*: but if the said *Chancellor* be to bee
 punished for committing of this Affaire,
 or no, he knoweth not, God knowes, but
 he saith that true it is, that at a certain day
 past

past the said Chancellor caused him to be payed for his Fishes, and that hee canceled the Obligation, and that the same was canceled in bounty, and conscience; or otherwise to shunne a slander and reproach in the case, hee knowes not now to say, but faith for certaine, that for the three Elles of Scarlet, hee was not yet payed, and thereupon the said Chancellor first of all before the LORDS and COMMONS answereth, and saith, That in this affaire, and of all this matter hee is innocent in every degree; And first of all as to that that is surmised of him by the Accusation hee now saith, that the said Fishmonger had not beene delayed, nor is yet delayed by the said Chancellor, and that right and iustice is done to him in the said Suit, and that the Accusation containes no Truth, and the said Chancellor voucheth to witnesse all the Iudges, and Serjeants of the Realme who were present in the Chancery many times when the said matter was pleaded betweene the parties, which suit is pleaded to issue, whereof part lieth in Iudgement, and part remaineth untried, so that nothing now remaineth.

maineth to doe, but to render Iudgement there of what remaineth in Iudgement and Traverses thereof have beene put in for difficulty, and for other cause, and that it is not Truth of the said Chancellor, that the Fishmonger hath now said, that hee could not have Iustice and that hee is unjustly delayed.

And as to the remnant of the Accusation now made, the said Chancellor sweareth by the SACRAMENT of IESVS CHRIST that hee is utterly innocent, and more thereof did never come into his Cognizance, but in manner, as hee hath said which is thus and saith, that of late hee had speech with the Officers of his house to know the Estate thereof, and for ordinary payment of those to whom for the dispendences of his said House hee was a debtor, and there first of all, and before his Officers hee demanded how such a quantity of Herring, and Sturgeon was brought into his said house, and not by way of bargained-for provision, and in what manner the same was spent in his house, whereat he marvelled because he knew not the said Fishmonger, and therewithall he reckoned
with

with his said Officers how such an obligation was also made by the said Fishmonger, who had a generall suit depending before him, and as soone as the heads of this matter was understood by him, hee was much grieved, and in passion did curse and sweare to his said Officers, that hee would not eat nor drinke within his said house, untill the said Fishmonger was payed for that which he had sent into his house aforesaid, and the Obligation was utterly cancelled and defaced, and thereupon presently was the said Fishmonger at his commandement caused to come in presence of the said *Chancellor* in the Chappell within his house, where hee stayed for the present time when he was in *London*, in the same Chappell where our Lord Iesus Christs Sacrament was continually, he swore by the same Sacrament in presence of his said Clerk, & of the said Fishmonger that he was never bound to do that which his said Clerk had undertaken, & that he touched nothing of the said Commodities before reckoned, nor had knowledge thereof in private or in publick, but by relation of those other Officers in manner aforesaid, and that hee was never a partner to the said Covenant made thereof in any manner, nor caused the said Clerk to take the

the same Obligation, but caused the said Fishmonger to bee payed for his Fish aforesaid. And the said *Chancellor* swore by the Sacrament of *Jesus Christ*, that his excuse now given, in contained full truth, and that hee is ready to prove in whatsoever manner it pleaseth our Lord the King, and his Noble Lords of the Realme there present to ordaine, and the said *Chancellor* prayeth to the Lords aforesaid, that they have due consideration to the Estate that hee beareth within the Realme by his Office of *Chancellor*; that it may so please them to ordayne him due remedie and Iustice of the said Fishmonger, concerning the defame and grievous Qlander which hee had brought upon his person in Parliament, which is the most high Court of the Realme, and could not accuse the said *Chancellor* of any thing in his complaint, but onely the Clerk of the said Lord. And for that the said Fishmonger disclaimeth in part, his said Accusation, and so denieth by his owne mouth that hee had not any bargain with the person of the said *Chancellor* but with his said Clerk.

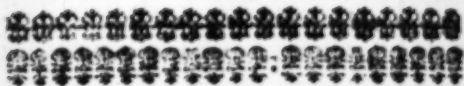
And also for that as well the said Clerk as the said Fishmonger thereupon examined, acknowledged that the aforesaid Obligation

Obligation was made to the said Clerk onely, and in his name without naming the Person of the said *Chancellor* in any part, and that the same Clerk upon his Oath made in the case had fully excused his Master the said *Chancellor*, that hee was not knowing of the said Obligation, nor of the Covenant aforesaid otherwise then before set forth.

And for that also his said Officers *Gibbon*, *Robert*, and *William* were personally in this Parliament, and examined upon their Allegiances to say the Truth of their part in this case answered expressly, that they never gave any thing, nor promised to give reward to the said *Chancellor* in private, nor openly by themselves, or any other person in the World: the Lords aforesaid told the person of the said Chancellor for excused of whatsoever was comprised in the Accusation aforesaid.

And thereupon the said Chancellor prayed againe to the LORDS there, for that as well the said Fishmonger had disavowed his Accusation in part, and for that he might every way be excused thereof for any thing that could appeare to the Iudgement of every discreet person
which

which heareth the said Accusation, that for those words, which the said Fishmonger had put in his Bill, he the said Fishmonger might be arrested untill he had found sufficient sureties to tender him that which should be adjudged upon this matter, and especially upon the false slander aforesaid, which he had drawn upon him. And thereupon it was commanded by the Lords, That as well the said Fishmonger, as the said Clerke should be committed, and so they were committed to prison, and afterwards they were let go at large: That is to say, the said Fishmonger by the mainprise of *Thomas Spicer* and *Steven Skinner*, who were obliged body for body to have the said Fishmonger from day to day, before the Lords aforesaid, or before whatsoever Judges should be assigned: And afterwards, for that the Parliament was drawing to an end, and the Lords were also greatly busied there amongst other great businesses of the Realm. The said Suit by the Parliament with all things therof, was referred to the Judges of the *Kings Bench*, to be heard and determined, as well for our Lord the King as for the parties.



In Scheda.

Record. fact. apud Westminstereum per Justiciarios, &c.

ET postea die Martis proximo post 6. Et ab. Trin. viz. 14 die Junii Anno regni Domini Regis R. 2. post Conquestum 7 Robertus Tresilian capitalis Justiciarius in Banco ipsius Regis, Robertus Belknap capitalis Justiciarius in Communi Banco, & Roger. Fulthropp unus Justiciarius in Communi Banco vigore Commissionis Parliamenti dicti Domini Regis, apud Novum Sarum ultimo tento fact. & autoritate ejusdem Commissionis unde in rotulo Parliamenti predicti mentio facta est specialis, contra quendam Iohannem Cavendish de London Fishmonger qui Parlamento predicto primo, viz. Coram communitate regni Ang. Congregat. & postmodum alia vite coram magnatibus ejusdem regni in eodem Parlamento, de Michali de Poole Milite, Cancellario dicti regni,

regni, & Iohanne Outre Clerico ipsius
Cancellarii de diversis misprisionibus sibi per
eisdem factis, ut asseruit, graviter querelavit;
& ipsum Cancellarium per hoc multipliciter
accusavit & asfamavit processi, in hunc mo-
dum.

Imprimis, viz. ipsum Iohann. Cavendish,
Coram iisdem Iusticiariis apud Westminst.
dicto 14 die Iunii, assedentibus sibi tunc ibid.
Hugone Seagrave Milite, Thesaurario
Angl. Magistro Walter de Shirlawe,
Custode privati Sigilli, Iohanne Walham,
Custode Rotulorum Cancellariis, nec non Wal-
tero Clopton, Wilhelmo Richell, & Io-
hanne de Lockon serviend. ipsius Regis ve-
nire fecerunt, qui ibidem comparens & de ac-
cusatione sua pradiit. & fact. & in Rotulo
Parliamenti pradiiti, plenius irrotuletur, cu-
jus materia, una cum responsionibus per Do-
minum Cancellarium in eodem Parlamento,
adhuc in excusationem suam datis prout conti-
nuitur in Rotulo pradiit pro maiore parte re-
citat. coram ipso Iohanne de Cavendish, tunc
ibi dem allocatum fuit per Iusticiarios pradiit.
& super hoc quesitum fuit ab eodem, si quid
haberet pro se vel ulterius dicere sciret, quare
ipse penam in Statuto contra huiusmodi defa-
matores edito subire non debeat maxime cum
Idem Cancellarius se in Parlamento illo ex-
cusavit & omni alio modo possibili se inde ex-

cusare est paratus, qui quidem Ioh. ad hoc responderebat & dixit quod ipse nunquam personam dicti Cancellarii in Parliam. illo defamarit, nec aliquid sinistrum sive inonestum de persona ipsius Cancellarii clam vel palam in Parlamento ille dixit, vel alias affirmavit quovis modo sed dicit quod quicquid per eum in hac parte fuerit hoc solum de prefato Ioh. Ottre Clerico ipsius Cancellarii in ista materia factum & sententia verborum suorum, ac morao & forma eorundem, nec non responsionibus ipsius Cancellarii & aliorum ex parte sua hinc inde factis & dictis ibidem debite ponderatis & ulterius habentia respondit ad hoc quod ubi prefatus Ioh. Cavendish, dixit quod Justiciam coram dicto domino Cancellario predicti, prout alius predicti. Cancellarius allegavit in eodem Parlia. clare constare debeat cui cunq; discreto, & intelligenti, quod idem Ioh. Cavendish per accusationem suam predictam ipsum Cancellar. in eodem Parliam. false defamavit. Per quod consideratum est quod prefatus Ioh. Cavendish super defamatione illa convincatur & idem Cancellar. recuperet versus eum damna sua et quod Ioh. Cavendish predicti. committitur prisoia Domini Regis ibid. moratur, quo usque tam prefato Cancellario de damnis suis predictis, quam dicto Domino Regi pro suis competenti sibi inde debito plenarie satisfecerit.



Rotu'o Parliamenti, Anno 10.

R.2.M.4 & 5.

IN this Parliament all the Commons with one accord and in one assembly came before the King, Prelates and Lords in the Parliament Chamber, complayning grievously of *Michael de la Poole* Earle of *Suffolk*, late Chancellor of *England* being then present, and accused him by demonstration of word of mouth in manner following, that is to say, First, that the said Earle being Chancellor and sworn to do the profit of the King, purchased of our Lord the King, Lands, Tenements and Rents to a great value, as appears by the Records, and Rols of the Chancery, against his Oath in that behalfe, not considering the great necessity of the King & the realm. And moreover, because the said Earle was Chancellor in time of the said purchase made, the said lands and tenements were extended at a lesser value than they were worth *per annum* by a great summe, to the deceiving of our Lord the King.

G 3

Item,

Item the said Lords were assigned at the last Parliament to view and examine the Estate of the King and Realme, and to declare their advice how the same may be well amended and put in better Governance and disposition; And the examination & report therupon made to the King, as well by mouth as in writing, the said late Chancellor said in full Parliament, that the said advertisement and Ordinance, ought to be put in due execution, and that it was not done in default of him that was the principall Officer.

Item, Whereas the charge was granted by the Commons in the last Parliament, to be put into certain forme, demanded by the Commons and assented by the King & the Lords, and no otherwise nor in any other manner then was ordayned, many mischiefes are come to the Realme, and it seemes true, that they came in default of the said late Chancellor.

Item, It was debated, That whereas one Tidman of *Lymberch*, who had to him & his heires, of the gift of our late King Edward, 50 l. *per annum*, of the Custome of *Kingston upon Hull*, which the said Tidman

man forfeited to the King; And also the payment of 50 l. a yeare, was discontinued for 20, or 30 yeares, the said late Chancellor knowing thereof, purchased to him and his heires of the said Tisdman the said 50 l. a yeare, and the purchase was untill the K. ought to enjoy the profit.

[*Item*, It was debated, whereas the high Master of S. *Anthony* is a Schismaticque, and for that cause the King ought to have the profit which appertaineth to him in the Realme of *England*, the said late Chancellor who ought to have advanced and procured the profit of the King, tooke to farme the said profit of the K. for 20 marks a yeare, and there tooke to his own use goods, and 1000 marks and more. And that the said Master of S. *Anthony* in *England*, which now is, ought to have possession of the said profit, and he could not have it before he had two persons bound with him by recognizance in Chancery, and other Instruments to pay 3000 l. yearly to the said late Chancellor, and to *John* his son 100 l. a yeare, for terme of their two lives.

[*Item*, That in time of the said late Chancellor there were granted and made di-

vers Charters and Patents of Murthers, Treasons, Felonies, Rature of Rols, Sale of Woods, and in especial after the beginning of this Parliament. there was made and ensealed one Charter of certain Franchizes granted to the Castle of *Dover*, in the disherison of the Crowne and the subversion of the duties of the places and Courts of the King and of his people.

Item, By the Ordinance that was made in the last *Parliament* for the Towne of *Gaunt*, That ten thousand marks ought to be gathered, and for default of such collection, there ought to bee forfeited 3000 marks, that by default and negligence therein of the said late Chancellor, the said Town was lost, and forthwith the said 10000 marks payed & the said 3000 marks lost by default as aforesaid. Of all which Articles the said Commons demand Iudgment of *Parliament*, whereunto the said E. made his answer in manner which followeth.

First, the said Earle saith to the Lords of *Parliament*, how that he was Chancellor of *England*. and the same time did represent the person of the King in his absence, and demanded if he ought to answer without the

the presence of the King, for that he was impeached of things done in time that hee was Chancellor.

Secondly, the said E. had ordained by the advice of his Councell, that Master *Richard Scroope* his brother in Law, should put in the words of his Answer of the said impeachments.

Whereunto the Lords replied, that it was honest for him to answer by his owne mouth, and therupon he made protestation that he might adde or diminish in his Answer what might be honourable and profitable to him, by advise of his Councell. Which thing was granted to him.

ANd as to the first Article of his impeachment, That is to say, after that hee was Chancellor that hee purchased certain land of the *King* &c. the said E. doth answer, &c. After that he was Chancellor, he at no time purchased any lands nor tenements of the *King* nor the *King* gave to him any, untill the time that the *King* caused him to take the Estate of an Earle, but by way of true Exchange, *videlicet*, That how the said Earle hath had foure hundred markes a yeare upon the Custome of *Kingston* upon *Hull* by descent of Inheritance, for

for which it pleased the King to assigne to the said Earle the Lands or Tenements in value; and that he assigned and gave part thereof to the profit of the King as well yearly as because of a summe of 1000 markes payed to the King by the said Earle for that cause. And further saith that the King at his progresse into *Scotland* pleased to make Duks, Bannerets, and Knights, to the honour of him and his Realme, he pleased without desire or seeking of the said Earle of his own proper motion, to make him Earle, and commanded him to take the Estate of the Earle of *Suffolke* in place of him that late died, and after that he named the quantity of that which he had to maintain that estate, and further saith that he will assigne the quantity of the lands, which were belonging to the said Earle of *Suffolke* who last died.

Item He saith, That the said Tidman hath had 50 l. a yeare upon the ancient Custom of *King*. upon *Hull*, to him and his heirs inheritably for ever, whereof King *Edward* uncle of the King that now is, was not payed of a long time, as appeares by the Accounts of Customers of *Kingston* upon *Hull*, in the Exchequer of our Lord the King, which Tidman for 1000 markes
which

which he owed to the said Earle, granted
 to him by his deed a long time since the 50
 pounds afore said to have and to hold to the
 said Earle and his heires for ever. And be-
 cause the said Earle, made restitution of the
 patent of the said Tidman to the King, dis-
 charged of arrerages, the K. pardoned the
 same purchase, without that, that the said
 Earle then committed or had yet commit-
 ted any forfeiture, or debt against the King
 concerning the said Tidman.

Item, As to the other Article, in which
 there is mention of a Charter granted,
 &c. he saith that a warrant came to him for
 so doing, and for that it was A Castle and
 to the profit of the King without evill in-
 tent of the said Earle, he passed it not in-
 tending then that it was against the Laws;
 And if any man would have declared or in-
 formed the said E. that it had been preju-
 diciall to the King or his Laws, he had not
 sealed the same, but would have repea-
 led it, and that yet thereof no damage is
 come, &c. And as to the other Charters
 specified in the same Article, he passed them
 by Warrant without ill intention or covin
 of his part in any point. And further he
 prayeth, that no new way bee put upon
 him otherwise, then had beene used afore-
 times

for which it pleased the King to assigne to the said Earle the Lands or Tenements in value; and that he assigned and gave part thereof to the profit of the King as well yearly as because of a summe of 1000 marks payed to the King by the said Earle for that cause. And further saith that the King at his progresse into *Scotland* pleased to make Dukes, Bannerets, and Knights, to the honour of him and his Realme, he pleased without desire or seeking of the said Earle of his own proper motion, to make him Earle, and commanded him to take the Estate of the Earle of *Suffolke* in place of him that late died, and after that he named the quantity of that which he had to maintain that estate, and further saith that he will assigne the quantity of the lands, which were belonging to the said Earle of *Suffolk* who last died.

I*tem* He saith, That the said Tidman hath had 50 l. a yeare upon the ancient Custom of *King.* upon *Hull*, to him and his heirs inheritably for ever, whereof King *Edward* uncle of the King that now is, was not payed of a long time, as appears by the Account's of Customers of *Kingston* upon *Hull*, in the Exchequer of our Lord the King, which Tidman for 1000 marks which

which he owed to the said Earle, granted to him by his deed a long time since the 50 pounds aforesaid to have and to hold to the said Earle and his heires for ever. And because the said Earle, made restitution of the patent of the said Tidman to the King, discharged of arrerages, the K. pardoned the same purchase, without that, that the said Earle then committed or had yet committed any forfeiture, or debt against the King concerning the said Tidman.

Item, As to the other Article, in which there is mention of a Charter granted, &c. he saith that a warrant came to him for so doing, and for that it was A Castle and to the profit of the King without evill intent of the said Earle, he passed it not intending then that it was against the Laws; And if any man would have declared or informed the said E. that it had been prejudiciall to the King or his Laws, he had not sealed the same, but would have repealed it, and that yet thereof no damage is come, &c. And as to the other Charters specified in the same Article, he passed them by Warrant without ill intention or covin of his part in any point. And further he prayeth, that no new way bee put upon him otherwise, then had beene used aforesaid times

times upon any Lord or such Officers understanding that of the Chancellor make a patent against reason or law. That such patent shalbe repealed and such Iudgement reversed, Without inflicting other punishment upon such Officer or Iudge. And the Commons replying to the Answer of the said Earle, concerning the first Article, did shew to the Lords the copy of his Oath, made when he was created Chancellor, in manner as followeth.

You shall sweare that well and loyally you will serve our Lord the King and his people, in the Office of Chancellor, and shall do right to all sorts poore and rich, according to the Laws and Usages of the Realm, and lawfully shall Counsell the King, and his Counsell shall keep. And you shall not be privy, nor suffer any damage, nor disherison to the K. nor that the rights of the Crown be taken away, if you can any way hinder it, and if you cannot hinder it, you shall make the same cleerly and expressly known to the K. Together with your loyall Advice and Counsell, and you shall cause and purchase
the

*the profit of the King, by all that lieth in
you to do reasonably, so helpe you God and
his holy Gospell.*

ANd praying that the same might be read
well understood, and the circumstances
of the said Answer considered, viz. That he
had not denied that he received of the
Kings gift after that he was made Earle, be-
ing in the Office of the said Chancellor, di-
vers Lands and Tenements which are cer-
tain and sure of the value of 400 marks a
yeare, which he hath had upon the Custom
of *Kingston upon Hull*, which are casuall &
may deceive the King to his damage in
that behalfe. And how he said that he had
received part of the said Lands and Tene-
ments, so taken in exchange before he was
Chancellor. The Commons say, that he was
then of the privy Councell, and afterwards
sworne in the creation of the Office of
Chancellor, by the aforesaid Oath, and he
in that Office agreeing to the exchanges,
takes and receives the remnant of the said
Lands and Tenements in full performance
of the exchanges, as by his Answer in Par-
liament aforesaid.

And

ANd in Answer to the second Article, the Commons replying, say, That in-
somuch as he acknowledgeth in his proper
protestations, That he represented the Es-
tate of the King, while he was Officer:
and so extends his power upon all others,
wherfore although default was in others,
he cannot therefore be excused, and especi-
ally of that which the King had comman-
ded him to speake in *Parliament* as he had
said, he was the more bound to put the said
matter in execution, and to confesse, what
he denied not, the dammages are no lesse
than they have surmised: They pray the
Iudgement of *Parliament*.

AND as to the Answer of the fourth
Article, the Commons replying say,
That it shall be found of record in the Ex-
chequer, the aforesaid Tydman to be deb-
tor to the King in great summs as they
suppose, and for that cause the said rent ap-
pertaines to the King, notwithstanding he
had otherwise forfeited, and so the King
was deceived and they pray that the re-
cords may be examined. And further say,
That one *Neele Hackney* was killed by his
wife and his servant, and the said Tydman
for which felony, the said woman and ser-
vant

vant were arraigned found guilty, and suffered the Iudgement and execution of the Sentence of the Law, and the said Tydman as followeth.

ANd to the Answer of the fift Article, the Commons prayed again, proposing the example of one *William Thorpe* late Chief Iustice of the *Kings Bench*, surmising that he tooke 20 l. of one party who had an Office in plea before him, and for that he sold the Law, for which cause he was judged to death & forfeiture of his Lands and Chattels, and say in somuch as the said Earle was so Chancellor, and tooke 100 l. &c. of the said provision there commanded to be delivered out of the Kings hands of his profits, which hee ought to have done according to the command of the K. freely without taking any thing, it seemeth to them that hee hath sold the Lawe and prayen Iudgement.

ANd to the Answer of the sixt Article, the Commons replying said, That it appertained to him (as wise as he is) to be well advised and counselled, that he assent not, nor do such a thing which may tend to the disherison of the King, and oppression of his people, as he would avoid

voyd the Indurance of the Iudgement of
Parliament.

ANd thereupon the said Earle replying
to the Replication of the Commons,
touching his oath said, That to take the
words of the said oath without other speci-
all Intendment no Chancellor herafter will
inseale any thing of the Kings grant to any
persons of Lands and Tenements or other
Goods without offence of his Oath. But
the said Earle saith, That it is not comprised
in the said Oath, nor forbidden him to
take to himselfe of the Kings gift, nor to
any other person.

And for that the Kings gifts to other
persons in the said voyage, nor of divers o-
ther things before, be not impeached nor
holden against the Oath of the Chancellor,
it seemeth to him that no more he ought
to be impeached for the gifts given to his
personall estate, seeing that in the said Oath
it is not forbidden nor restrained to him
more than to others, & more especially for
that the said Estate and the Gifts given are
confirmed by *Parliament*, and further saith,
that he accepted of his Oath of Chancellor
according to his conscience and power, and
for the causes before expressed, he saith, as
he shall answer before God, that he thinks
nothing

nothing done in the matters aforesaid against his Oath, or understanding of his conscience, but that the Chancelour may incale the Kings gifts to the Lords for to maintaine their Estate; or for other reasonable cause by the Kings warrant, and that hee hath done nothing against his Oath, &c. And saith that, that which is comprised in the Oath that hee suffer no damage; nor disherison of the King &c. That is to bee understood of that which is intended, of matters whereof the King hath not cognizance, and that appeareth by the clause comprised in the Oath, that hee shall make known to the King cleerely, and expressly: And after that the King is informed in such manner, the Chancellor may doe the Kings Commandement without offence of his Oath, and saith that concerning his Estate, and what the King gave him, it was expressly done by the Commandement, knowledge, and will of the King, and so not against his Oath, and that it may not bee intended that hee should bee impeached concerning this matter.

I Tem as to that, that the Commons say that the said Earle hath deceived the King; because he hath taken of the King, the manner of *Faxfleet* in value 50. pounds, which Mannor was worth 200. l. *per annum* &c. The said Earle answereth, that Master *William Morris* hath reported to him that hee hath taken of the King the two parts of the said Mannor, with the rent in *North Dalton* to serve for 7. yeares for fifty pound a yeare, and that hee hath lost by the said Farme in the said time 200. marks, and further saith that the said Mannor with the ten markes of rent in *Dalton* altogether are extended (as appears in the Chancery) but at 41. l. 9. s. 3. d. ob. And for that that, the said Earle understands by the Earle of *Kent*, who hath had the said two parts of the said Mannor together with the said ten marks, at the value of 50. marks, that the intire Mannor could not bee above the value of 50. pounds. And further saith, that the said Mannor with the ten markes are not worth more. And that under a certaine paine saith, that whatsoever person will sustaine the charges of the said Mannor sufficiently, and pay him for the two parts 50. markes for aid, and as to the third

third part bee it what it will, let him give security to pay for the said Mannor, with the ten markes of rent 50. l. *per annum*, that hee will so lease it with all his heart.

Item as to that impeachment of the Commons of a 100. pound pension, out of the provision of Saint *Antony*, and that the said Earle should sell the Lawes, and put in an Example of Master *William Thorpe* &c the said Earle answereth, That the cases are nothing alike, which the parties pleaded before the said Master *William Thorpe* as before their Iudge for the Lawes of *England*. In which case no Iudges ought to take reward of any parties pleading before them. But the said provision came to him with the help of Saint *Pierce* the Pope, and not as a Chancellor or Iudge in this case, but as Father and friend to *John* his son. At which time a man knew not if the said *John* had obtained it of the Popes favour or no. Also faults were found by the Counsell of the said Earle in the Bulls of the said provision; And from the same cause the said Proviseur by his friends of his owne accord profered an annual Pension of a 100. and 60. pound for to

leave suit in the Court of *Rome* by his said Sonne, and for that hee should not impeach the Bulls : that the matters before said were not done as before a Iudge, but by way of composition as may bee prooved by instrument and by witnesses in this Towne, and so this matter touched not the Lawes of *England*, and alwayes the said Earle intended not but that hee should bee holden to answer to the party in this case. And thereupon after the answers of the said Earle given to the Accusations of the said Commons, and the replications to them made of one part, and of another the said Earle at the request of the said Commons for the greatnesse of the defaults so of him surmised, was arrested by Commandement of the KING and Commons in ward of the Constable of *England*, and afterwards let at Liberty upon bayle. And for that the said Earle alleadged not in his answer that hee observed the effect of his Oath, in that hee swore that hee would not know nor suffer damage, nor disherison cleerely and expressly to the KING, together with his owne lawfull advice and Councell, and that hee should cause and purchase the profit of the KING

by

by all that he could reasonably doe: and
 hee held the premisses although hee were
 Principall Officer of the KING, know-
 ing the Estate and necessity of the KING
 and of the Realme, and did take of the
 KING such Lands, and Tenements as
 is supposed in the Impeachment to him
 in the said first article surmised, & although
 he alleadged in his answer, that the deeds
 to him so made were confirmed by full
Parliament, there is no such accord in the
 rolls of *Parliament* wherefore it is award-
 ed that all the mannors, *Lands, Tenements,*
rents, services, fees, advowsons, reversions &
 profits with their *appurtenances* by him so
 received of the K. be releised & reprinted in-
 to the K. hand, to have & to hold to our L.
 the K. the lands & chattells of the said E.
 from thenceforth is not the Intention of
 the K. nor of the *Lords*, nor that this Iudge-
 ment extend in the Law to cause the said E.
 to lose his name and title of Earle, nor
 of the 20. pounds a yeare, which the King
 granted him, to take of the Issues of the
 County of *Suffolk* by the name and Title
 aforesaid.

And moreover for that the said E. lately
 denied that he was of the K. privy counsell
 when he demaded of the K. the said *exchāge*
 & had *acknowledg'd* that before the *exchāges*
 performed

performed hee was made Chancellor, in which Office hee was bound by his Oath made in the forme aforesaid : and hee so being sworn to the said Office , tooke of the King the said 400. markes of Land , by reason of the said Exchange agreeing to the said covenant of *Exchange*, which hee also made before that hee was Chancellor , in which Office hee was bound by his Oath : And alleadged not in his said answer, that the King gave him Mannors, Lands, and Tenements; which are certaine and cannot very easily bee destroyed, nor bee countervailed by the aforesaid 400. marks annuity, which are leviabie and demandable of the Customes and also as casuall , and in divers cases there may losse insue ; It is awarded that all the Lands and Tenements so taken by the said Earle, by the exchanges aforesaid bee resumed into the hands of our Lord the King to hold to him and his Heires, in manner as hee held the same before the gift or deed in the said Exchange , in which the Issues and profits aforesaid after the said exchange deducted : if the said Issues and profits so taken after the Exchanges extend to a greater value then 400. markes a yeare, that then the King shall have the overplus
of

of the Lands and chattells of the said Earle from thenceforth hereafter. And it is therefore awarded that as well the said Mannor of *Flaxfleet*, and the ten marks of rents aforesaid with the appurtenances bee reprinted in the Kings hand to hold to him, and his Heires as hee held the same before the gift to the said Earle, so as the Charter, the pardon, and Confirmation of the purchase of the said fifty pounds of rent bee certaine in the hands of the King, and his heires in firme as it was before the purchase, and it was since to the said Earle, and that the issues & profits received or owing to the use of the said Earle as well of the said Mannor of *Flaxfleet*, and the ten markes of rent as the Issues and profits of the said fifty pound of rent, which he thereof had taken by reason of the purchase aforesaid, bee levied to the use of our Lord the King of the Lands, and Chattells of the said Earle from henceforth.

And as to the Article containing the Provisions of Saint ANTHONY, for that the Master of the House of Saint *Anthony* in which the profits were taken as proved in *England* was a Schismaticke, and taxed for moving the King and power of *France* and by

such repute as then and yet is taken to
 bee, wherefore all the said profit ought
 to appertain to the **K I N G** as of a *Schif-*
matick and alien, which thing of rea-
 son ought to have beene made known
 by the said Earle, before hee demand-
 ed of the **K I N G** the said profit, and
 hee knew expressly that hee demanded
 it for his sonne as an Hospitall, and
 alleadged not in his answer, that the
 King when hee granted the profit was
 informed of the matters aforesaid: and
 also in that, that when hee was such
 an Officer as before said, hee sent to
 the Court of *Rome* to have the same
 profit for his Sonne of the Collation of
 the *Pope* (as benefice of the holy Church)
 and to have also the profit out of the
K I N Gs hand by the Sea Apostolicall
 (as the Record termeth it) and hee de-
 nies not that hee received of the said
 profits foure hundred pounds *per an-*
num, alleadging that hee rendered to
 the **K I N G** the same, and that af-
 ter the said Earle had made a bargaine
 to have the provision which hee clay-
 med of the said profit in *England* of
 the *Pope*, a hundred pound *per annum*
 of the said provision to him and his
 Sonne *John*, for terme of their two lives
 for

for to deliver the said profit to the said provision for payment of which 100. l. to him, and his sonne he tooke surety of the provision by recognizance and Obligations of divers summes, notwithstanding that the King had commanded by his Letters to deliver all the profit aforesaid out of his hands to the said provision there, where it seems for any thing that yet was shewn, that all the said profit ought to have rested in the Kings hand for the causes aforesaid, at least untill it had beene discussed whether the said profit were the benefit of holy Church grantable by the Pope: or appurtenant to the K. by reason of Schismacie and endemny of the said Master, and he alleadged not in his answer, that the King was cleerely informed of the matters aforesaid: wherefore it is awarded that the said foure hundred markes *per annum* in time, that the said profit was so granted to him by the King untill the time that hee delivered the same profit to the said provision, as also the said 100. l. a yeare received also of the said provision untill the same bee levied to the use of our Lord the King of his Lands and chattells, and that all the profit which should of late appertaine to the said Earle by reason of the said recognizance, or of other Obligations, and

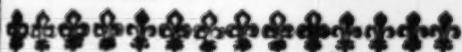
and Covenants also made in surety of payment. And as also to the 1000. markes, which hee had alleadged that he payed to the King for the said Exchanges. It is awarded that the said 1000. markes remaining in the hands of the King, as part of payment of the fine and rancome that the said Earle shall likewise make to the King, before hee be delivered from prison.



*Ex rotulo Parliamenti Anno 5. H.4.
N. 11.*

I*Tem* Friday the last day of *February*, the Earle of *Northumberland* came before the King, and the Lords and Commons of Parliament, and there the Chancellor of *England* shewed how on Tuesday last past hee had beene before the King, the Lords and Commons in the same Parliament, and there beseeched the King as hee had done at other times at his comming before him in *Yorke*, that it would please our said Lord the King to grant him pardon of those things wherein he hath offended against him, not keeping his Lawes and Statutes as Ligeance demandeth

mandeth as by a Petition by him presented in Parliament, written in *English*, whereof the Tenor ensueth may appeare more at large.



To my most Dreadfull and Sovereigne liege LORD.

I Your humble liege, beseech your Highnesse to have in remembrance my comming to your Highnesse, to have in remembrance my comming to your Worshipfull presence unto *Yorke* of my free will by your goodly Letters, where I put mee in your Grace, as I that nought have kept your Lawes and Statutes, as liegeance asketh, and especially of gathering of power, and giving of Liveries, as that time I put mee in your Grace and yet doe. And I sent it like to your Highnesse, that all gracelesse should not goe. Wherefore I beseech you that your High Grace be scene on mee at this time, and of other things which you have examined mee of, I have told you plainly, and of all I put mee wholly in your Grace.

Which

VWhich Petition by Commandment of the King, examined by the Iustices for to have their Counsell, and advice in this behalfe by Protestation made by the said Lords, that the Iudgement appertained to them onely, and after rearing and understanding of the same Petition before the Lords, as Peers of the Parliament, to whom such Iudgements appertain of right to heare and understand by the Statutes made in the 25th. yeare of the King that now is, by deliberation of King *Edward* cozen of our Lord the King that now is, they adjudge that those things which the said Earle hath done contained in the said Petition, are not treason nor Felony but onely Trespasse, for which Trespasse hee ought to make fine and ranfome according to the Kings pleasure, wherefore the said Earle most humbly reverenceth our Lord the King, and the said Lords, the Peeres of Parliament concerning the right Iudgement, and further the said Earle prayed our Lord the KING, that in affirmance of those matters hee might bee purged from all suspitions, and prayed to bee judged *de Novo*, in the presence of the KING, and of the LORDS
and

and Commons in Parliament; the said Earle tooke his Oath upon the Crosse of the Arch-bishop to bee faithfull and loyall liege man to our Lord the King, and to his eldest sonne and to the Heires issuing of his body, and to his brothers and their Issue successively and inheritably, at which time if the King would command him, hee should bee ready to shew and declare that which hee knowes in that behalfe, and set forth the truth thereof. And that our Lord the King might not bee deceived, the said Earle was present and (charged in his liberty) the said Earle upon his Oath which hee had made upon the said crosse setteth forth and declareth openly in Parliament that, which hee knoweth in this matter upon which charge to him given the said E. saith.

That at the day of Tryall of his life hee knew not of the Dukes and Bishops, and other Lords any thing that sounded in derogation of the honourable estate of the K. and of his royall Majesty, but that they were and are to him good and lawfull Lieges, and that for such our Lord the King may hold and repute them, and may faithfully put his trust in them in perill of his life, and by the Oath which hee had made as before said. And moreover
the

the said Earle of *Northumberland* humbly beseeched the Lords, and Earles and Commoners, that they will beseech our Lord the King of his grace towards him concerning the fine and ranfome, and if at any time he doe any thing against our Lord the King other then liegeancy : that they make no prayer, nor request for him in whattsoever ensueth thereon, but that they be altogether against him. And also the same Friday it was adjudged by the King and the Lords in Parliament, that leave of Battaille be made by the said Mr. *Henry* & Mr. *Thomas*, which are holden to be guilty of Treason, and that as well for themselves as for others which shall bee in their company at the time of the said licence : And those to whom the King had granted favour and pardon, the King will that they stand firmly in their force and vertue.



*Ex rotulo Parliamenti Anno 31.
H. 6. N. 26.*

[T]hen the Friday the 15. of February it was opened, and declared to the Lords Spirituall and Temporall being in the Parliament

liament chamber, by the Counsell of the Duke of *Yorke*, that whereas *Thomas Thorpe* the monday the first day of *August*, in the raigne of *Henry* the sixt 30. came to the place of the Bishop of *Durham*, and then and there tooke and bore away certaine goods and cattell of the same Dukes against his will and licence, and thereupon the said Duke came and tooke an action by Bill in *Mich: Terme* last past, against the said *Thomas* in the Court of Exchequer according to the Priviledge, for so much as the said *Thomas* was one of the Court, to which Bill the said *Thomas* willingly appeared, and had divers dayes to imparle at his request and desire: and to the said Bill and action pleaded not guilty, whereupon there was awarded in the said Exchequer *a venire facias* to the Sheriff of *Middlesex* returneable in the said Exchequer, and thereby the Jury that passed betweene the Duke and the said *Thomas*, it was found that the said *Thomas* was guilty of the said trespassse contained in the said Bill, and the same Jury assessed the damages to the said Duke, of the said trespassse to a 1000.l. and for his costs 20.l. And thereupon Iudgment was given in the said Exchequer, and the said *Thomas* according to the course of the Law was committed

committed to the *Fleete* for the fine belonging to the King in that behalfe. And thereupon it was prayed humbly on the behalfe of the said Duke: that it should like their good Lordships, considering that the said Trespasse was done and committed by the said *Thomas*, since the beginning of the present Parliament: And also the said Bill and action were taken and scanned, and by proceſſe of Law Iudgement given thereupon against the said *Thomas* in time of vacation of the said Parliament, and not in Parliament-time, and also that if the said *Thomas* should bee relieved by priviledge of Parliament, ere the time that the said Duke bee satisfied of his said dammages and costs: the said Duke should bee without remedy in that behalfe, That the said *Thomas* according to the Law, bee kept in ward according to the time, that he have fully satisfied and contented the said Duke of his dammages and costs; the said Lords Spirituall and Temporall, not intending to impeach or hurt the liberties and priviledges of them, that were come for the Commons of this Land in this present Parliament, but equally after the course of the Law to minister Justice, and to have knowledge what the Law will weigh in that behalfe opened,
and

and declared to the Iudges the premisses, and asked of them whether the said *Thomas* ought to be delivered from prison by force and vertue of the priviledges of *Parliament* or no.

To the which Question the chiefe Iustice in the name of all the Iustices after some Communication and mature deliberation had among them, answered and said, that they ought not to answer to that question, for it hath not beene used aforetime that the Iudges should in any wise determine the Priviledges of this High Court of *Parliament*, for it is so high and mighty in his nature, that it may make Law, and that which is Law, it may make no Law: and the determination and knowledge of that priviledge belongs to the Lords of *Parliament*, and not to the Iudges. But as for the Declaration of proceedings in the lower Courts in such cases as Writs of *Superfedeas* of priviledge of *Parliament*, to bee brought and delivered to the said chiefe Iustice, hee said there be many and divers *Superfedeas* of priviledge of *Parliament* brought into the Courts, but there is no generall *Superfedeas* brought to surcease all proceffe, but if there should bee, it should seeme that this high Court of *Parliament* that ministreth

all Iustice should let the *proces* of the common Law. and so it should put off the party complaynant without remedy, for so much as actions of common law be not determined in this high Court of Parliament, and if any person that is a member of this high Court of Parliament bee arrested in such cases as he not for felony or Treason, or security of the peace, or for condemnation had before a Parliament, it is used that all such persons should be released of all such arrests, and make an *Attourney*, so that they may have their freedome, and liberty freely to attend the Parliament.

After which answer and declaration it was throughly agreed, assented and concluded by the Lords Spirituall and Temporall; that the said *Thomas* according to the Law, should remaine still in prison for the causes above said the priviledge of Parliament, or that the said *Thomas* was Speaker of the said Parliament notwithstanding, and that the Premisses should be opened, and declared to them that were common for the Commons of this Land, and they should bee charged and commanded in the Kings name, that they with good hast and speed proceed to the Election of another Speaker. The which Premisses for as much as they were matters in
Law,

Law, by the commandement of the Lords were opened, and declared to the Commons by the mouth of *Walter Moyle* one of the Serjeants at Law in the presence of the Bishop of *Elie*, in the Kings name, that they should proceed to the Election of another Speaker, with all godly hast and speed, so that the matter for which the K. called this Parliament, tooke good and effectuali conclusion and end.

Item 16. die Febr. tunc prox. sequenti prefati Communes; & quidam de sociis suis declaraverunt dominis spiritualibus & temporalibus in presenti Parlamento, quod ipsi per mandatum ex parte domini Regis praeiis sibi injunct. cum omni diligentia exequentes elegerunt loco praefati Thom. Thorp, Thom. Carleton militem prolocutorem suum humillimè deprecando quatenus praefatus dominus Rex hujusmodi electionem vellet acceptare.

Quibus per dominum Cancellarium Angliae de mandato dicti Domini Regis, & advisamento consilii extitit respons. quod quidem dominus Rex de electione praesenti Thom. Carleton se bene contentavit injungendo eis quatenus ad expeditionem negotiorum Parliamenti praedicti cum omni diligentia procederent,



Judgements upon Writs of error
in PARLIAMENT.

I Ferroneous Judgements bee given in the Kings Bench: or in the Exchequer Chamber upon the Statute of 27. Eliz. cap.

Writ of Linc
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affirmed in the
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Upon the Wri
Justice of the K
the Record,
the Parliament,
script but cari
there p on the Errors bee assigned: or
as some Examples are before the *Assigna*
ment of the Errors. order is to bee given
that a *Scire facias* be awarded against the
Defendant, upon whose appearance & exa
mination of the Errors by the Lords, the
Judgement is either affirmed or reversed.

Alter

CROPPE

PAGES

10. par. 30.
3. 3. Art.
18.

13. E. 3. fo:

Hadlowes

case par. 1

R. 2. m. 3.

Art. 28. 2 R.

1.

Art. 19. 20

P. 2. Art.

26. the case

case of the

case of the

Barle of Sa-

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par. 15. R.

1. m. 5.

Art. 27. &

16. Art. 8

& 17. Art.

13 & 18.

the case of

the Dane,

and Chap-

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of Newtort

Bannell,

14. 7. fo:

10 Flower-

dens case.

After the Record thus brought in,
*Clericus Parliamenti habet inde Cu-
 stodiam & per duos tantum & non per
 Communitatem assignabitur Senescallus, qui
 cum Dominis spiritualibus ac temporalibus
 per consilium Justiciariorum procedat
 ad errorem corrigendum.*

In which words it is observed; that
 the Lords have power to make a Delegation
 of their Jurisdiction to a person cho-

as a Steward to
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 omens, and He-
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 judge themselves
 a Steward.

d Christopherus
 al. Justiciarius de

*Hanc Regis scripsum in i. ar. in camera
 parl inter duos bre. de errore & billa de regi-
 naincor. ac rotul. et in quibus continebantur
 placita & processus in quibus supponbatur er-
 ror, & ib. reliquit transcript totius recordis
 Cler. Parl. & super hoc venit Richardus
 Herbert. Ioh. Awbrey, Willielmus fili-
 am & Simon Browke in propriis personis
 suis in Parlamento, & statim dixerunt*



Judgements upon Writs of error
in PARLIAMENT.

IFerroneous Judgements bee given in the Kings Bench: or in the Exchequer Chamber upon the Statute of 27. *Eliz. cap. 18.* the party may have his Writ of Error returnable in Parliament, but not upon judgement given in the Common Pleas untill the same bee reversed or affirmed in the Kings Bench, as it was answered in Parliament under *Edward the third*, in the case of the Bishop of *Norwich*. Upon the Writ of Error the Lord chiefe Justice of the Kings Bench is to bring in the Record, and a Transcript of it into the Parliament, and there leaveth the Transcript but carrieth the Record back and therewith in the Errors being assigned: or as some Examples are before the *Assignamus* of the Errors. Order is to bee given that a *Scire facias* be awarded against the Defendant, upon whose appearance & examination of the Errors by the Lords, the Judgement is either affirmed or reversed.

After

or. par. 30.
3. Art.
18.

22. E. 3. for
Hadowes
case par. 1
R. 2. m. 3.
Art. 28. 2 R.

Art. 19. 20
7. 2 Art.
26. the case
of the
case of the
Bishop of Sa-
isbury.

par. 15. R.
2. m. 5.
Art. 27. &
26. Art. 8
& 17. Art.
13 & 18.

the case of
the Dane,
and Chap-
aine of
Richfield
and the pray-
er of New-
port
Dannell.

M. 7. for
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 per consilium Justiciariorum procedat
 ad errorem corrigendum.*

In which words it is observed; that
 the Lords have power to make a Delegation
 of their Jurisdiction to a person chosen
 out of themselves, as a Steward to
 judge for them, as also they did in their
 proceedings against Gomez, and Weston
 under Richard the second, when
 they appointed the Lord Scroope for
 Steward of the Parliament to arraign
 the Offenders, but this rests at their pleasure
 whether they will judge themselves
 together, or so appoint a Steward.

Memorandum quod Christopherus
 Wray miles capital. Iusticiarius de
 Banco Regis secum adduxit in iur. in camera
 parl. inter duos bre. de errore & billa de regi-
 na in aors. ac rotul. in quibus continebantur
 placita & processus in quibus supponbatur error,
 & ibi reliquit transcript totius recordi de
 Cler. Parl. & super hoc venit Ricardus
 Herbert. Ioh. Aubrey, Willielmus filius
 am & Simon Browne in propriis personis
 suis in Parlamento, & statim dixerunt

quod in recordo & processu predict. in reddi-
 tione Iudicis predict. manifestè est erratum
 in hoc quod postquam Iudicium predict. in lo-
 quela predict. versus prafat. Thom. Gomi-
 el redit. fuit & antequam predict. Iohannes.
 Hunt prosecutus fuit & impetravit predict.
 primum breve de sciis facias versus prafat.
 Thom. Ric. Herbert & ceteros predictos
 manucaptos predict. Thom. Gomi-
 elum breve de capias ad satisfaciendum pro de-
 bito & damnis, predict. per prafat. Iohan-
 nem Hunt. in Parlamento predict. pro-
 sequendo. Et reternat. fuit versus prafat.
 Thom. Gomi- el ubi per consuetudinem Curia
 dictae Domina Regina coram ipsa Regina à
 tempore contrarii memoria hominum non ex-
 istit in eadem usitat & approbat. brev. de
 Cap. ad satisfaciendum versus eundem Thom.
 Gomi- el, pro debito & damnis predict. Parl.
 predict. prosequi & retornari debet antequam
 aliquid brev. de sci fac. versus manucaptos
 predict. in loquela illa impetrant. seu pro-
 sequi debe et licet consueudo, & forum
 captionum & cognitionum in curia predict.
 ubi fuerunt in forma predict. viz. si contigerit
 eundem Thomam Gomi- el in Parlamento
 predict. convinci, tunc iidem manucaptos
 concesserunt & quilibet eorum per se concessit
 tam predict. debitum quam omnia damna &
 castag. &c. prafat. Ioh. Hunt. in ea par-
 te

et adjudicentur de Terris & catallis & eorum cuiuslibet fieri & ad opus predict. Iohannis Hunt, levare si contigerit predict. Thom. Gomiell debitum & damna illa prefat. Iohannis Hunt minime solvere aut se prisiona Marefcall. Domina Regina coram ipsa Regina ea occasione non reddere &c. Et petere iidem Rich. Herbert & alii predict. quod Iudicium predict. & processus super bre. de scire fac. prosequant. in curia Domine Regine coram ipsa Regina revocetur ad nullum. & penitus pro nullo habeatur. Et super hoc Domini per consensum Iustitiariorum post longam & maturam deliberationem cum consensu adjudicaverunt quod iudicium predict. & processus super bre. de scire fac. prosequant. in Curia dict. domin. Regine coram ipsa Domina Regina revocetur, adnulletur & penitus pro nullo habeatur.



CHAP. V.

*Bills passed and Judgements given without
assent of the Lords Spiritual.*

Vnder Edward the third a Petition of the Commons was thus.

we. parl. 10
E. 3. n. 13.
15. 18. Sec
also to this
eliz. stat.
E. 1. & 25.
E. 2. stat. de
provision.

Item we are not willing to suffer that payment be made to Cardinalls for their juorneying into *France*, for to treat out of the Realme of *England*.

THe answer is, as to the dispences of Cardinalls; it seemeth to all the Baronage and other sages of the Kings Council, that the Commons demanded reason: and for that they are agreed that it shall be so.

The like is there in the two Petitions of the *Commons* against the Clergy, carrying money to *Rome*, and Cardinall having benefices here, divers Ordinances against the Church of *Rome* are agreed by the King, the Lay, Peers, & *Commons*, but all the *Prelates* made Protestation of not assenting or doing what may be, or turne in prejudice of their Estate or Dignity.

The

The power and direction for Iustices of the peace is ordained at the complaint of the Commons by the King, by the assent of the Lords Temporall: And so also divers times without mention of the Lords Spirituall, who indeed under *Edward the 3* protested that they had not to do with matters of keeping the peace.

THe Commons exhibite a Petition against Procurations from *Rome*. & benefices obtained by Letters thence, &c. It is ordained & established by the K. by the advise and assent of the Lords Temporall, that no Benefice is to be had here, but by gift from the Kings Subjects, &c. and if that any do contrary to this Act, he should incur the danger of a *præmunire* given by the Statute of 27 E.3.

A Petition in these words. *Item*, that the Appeales perquisites, accusations, Judgements had and rendered, &c. should be good, notwithstanding the Lords Spirituall and the procurators of the Lords Spirituall absent themselves out of Parliament, in time of the said Judgements rendered for salvation of their estate: As it is contained in a Protestation, by which the Lords Spirituall and Procurators were in this present Parliament, &c.

The

Rot. Par. 3.

R. 2 M. 3.

N. 37. fine

12.

Rot. 11. R.

2 M. 3. Ad.

34. part.

The King granteth it, And the Protestation of the Clergy is entered as followeth.

For as much as certaine matters were moved in this present Parliament, touching openly the crime of the Arch-Bishop of *Canterbury*, and the other Prelates of his Province, who made Protestation in the forme and words which followes.

IN Dei Nomine, Amen, Cum de Jure & consuetudine regni Angl. ad Archiep. *Canterbur.* qui pro tempore fuerit, nec non ceteros suos suffragandos, Confratres & Coelects. Abbates & Priores, aliosque Prelatos, quoscunque per Baroniam de domino Rege tenentes pertinet in Parliamentum Regis quibuscunque ut pares regni predicti personaliter interesse ibidemque de regni negotiis & aliis ibi tractare consuetus, cum ceteris dicti regni paribus & aliis consulere, ordinare statuere & definire ac cetera facere qua Parliamenti. Tempore ibid. incidet. faciend. in quibus omnibus & singulis nos *Willielmus Cant. Archiepiscopus totius Angl.*

Angl. Primas & Angl. Sedis Legatus,
pro nobis nostrisque Suffraganeis, Coep.
& confratribus, nec non Abbatibus, Prio-
ribus & Prelatis, omnibus Supradictis po-
testat. & eorum quilibet potestatur qui
per se, vel procuratorem si fuerit modo
presens & publicè & expresse quod inten-
dimus & intendi volumus, ac vult eorum
quilibet in hoc presenti Parlamento & a-
liis ut pares regni pradiçti more solito in-
teresse considerare tractare, ordinare, sta-
tuere, & definire, ac cetera exercere cum
ceteris jus interessendi habentibus eisdem
statu & ordine Furis; & eorum cuilibet
in omnibus semper saluum verum, quia in
presenti Parlamento agitur de nonnullis
materiis, in quibus non licet nobis alicui
eorum juxta sacrorum Canonum instituta,
quomodo libet personaliter interesse; eo
propter pro nobis & eorum quolibet prote-
stamus, & eorum quilibet hic presens eti-
am protestatur quod non intendimus, nec

It was or-
 dained in a
 Councell
 held at
 Westmin-
 ster, that
 no Clergy
 man should

Agitare judicium, and he that did, was to be deprived of his di-
gnity and Orders, Roger de Hoveden in H. 2. page 30. 10. &
Gervaf.

volumus sicuti de Fure non possumus
 nec debemus intendi, nec vult aliquis eorundem in presenti Parlamento, dum de huiusmodi materiis agitur vel agetur, quomodo libet interesse, sed nos & eorum quemlibet in ea parte penitus absentare in re paritatis vestre, & cuiuslibet eorum interessend. in dicto Parlamento, quoad omnia & singula ibidem exercenda juris, & eorum quilibet Statu & ordine in omnibus semper salvo. Ad hoc insuper protestamur, & eorum quilibet protestatur quod propter huiusmodi absentiam non intendimus, nec volumus, nec eorum aliquis intendit, nec vult quod habet processus, & habend. in presenti Parlamento, super materiis antedictis. In quibus nec possumus, nec debemus, & permittitur interesse quantum ad nos & quemlibet eorum attinet futuris temporibus, quomodo libet impugnentur infirmentur seu etiam revocentur.

Which

Which Protestation read in full Parliament by the commandement of the King, and Assent of the Lords Temporall and Commons, In like manner make Protestation the Bishop of *Duresme* and *Carlisle*, *mutatis mutandis*. This was upon the occasion of the appeale of Treason in the same Parliament commenced by *Thomas Duke of Gloucester*, and others, against *Alexander Arch-Bishop of Yorke*, *Robert de Vere*, Duke of *Ireland* and others.

Rot. proces.
& Judicii
prob. 11. R. 2

But although they thus absented themselves, they made no proxy at this time to assent in their room; as afterwards they agreed to do in cases of Iudgement of death. But the first use of such proxies is in the 21^o *Rich.* the 2. neither at all are such proxies, or assent of the Bishops, For under *H. 5.* the Earle of *Salisbury* by Petition in the nature of a Writ of Error, shewed that the Attainder of *John* the late Earle, father to the Petitioner in the second of *H.* the 4 might now be reversed, and amongst the errors assigned, one was, that he had been adjudged *sans assent* in Parliament, but it was in Parliament now adjudged that it was no error.

Rot. Parl. 2
H. 4. & Rot.
Pap. 2. H. 5

The Arch-bishops of *Cant.* and *Yorke*, for themselves & their Clergy make Protestation not to consent to any Statute made

Rot Parl 13
H. 1. A. 1.
24 Holests
12 Reg.
Courtney,
332.

in this Parliament, *Quatenus ea in restrictione potestatis Apostolica aut in eversione Ecclesie dignitatis tendere dignoscuntur*, which at their request was intolled in Parliament, yet an Act passed at that Time and is publique against the Popes giving of Benefices by way of provision in England.

Dyer i 2. 67. Parli. yet the Act of this year as of most others, is domin. tam spiritualium quam temporalem assensu. In the beginning of Queene Elizabeths raigne, when divers Acts passed touching matters of the Church, as Service and Sacraments, and Church-possessions, &c. the Bills passed, *Dissentientibus*, All the Bishops as it is especially entered in the Journals, with particular enumeration of all their names.

7H. 8. f. 104 b. vel 184 b

Whereunto may be added that assertion of the Iudges in that deliberation had under Henry the eight, touching the power Royall in the Church, as the words were reported, That our Lord the King may well enough hold the Parliament by himselfe and all his temporall Lords, without the spirituall Lords, &c.



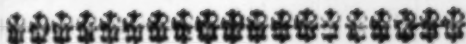
CHAP. VI.

*Their appointing Judges out of themselves
for examination of Judgements and
delays of other Courts.*

THIS is given them by a Statute of Ed- Stat. 14 E.
ward the third, in these words. Like- 3. cap. 5.
wise for that many mischiefs are come,
&c. That divers places, as well in the
Chancery as the Kings Bench, Common
pleas & the Exchequer, the Iustices assig-
ned, and other Iustices to heare and de-
termine the Iudgements, wherein have
been delays sometimes by difficulty, som-
times by divers opinions of the Iudges,
and sometimes by other occasions, it is at-
fented, established and agreed, that of the
Commons before said, in every Parliament
there be one Prelate, two Earles, and two
Barons that shall have Commission and
power of the King. Which priviledge is
now taken away from the Prelacy by Act
of Parliament, Anno 17. Car.) to heare by
Petition to them delivered, the plaints of
all those which complaine of such delays,
or grievances done to them, and that they
have

have power to cause to come before them at *Westminster* or in any other places where the parliament shall be holden, and the Courts of records and processses of such Iudgements as are delayed; and shall cause to come before them the same Iustices, who shall be there present to heare the cause, and their reason also heard by good advice of them; the Chancellor, three Iustices of one Bench, and of the other, and others of the Kings Councell.

And in the same Parliament accordingly, the Arch-Bishop of *Canterbury*, the Earles of *Arundell* and *Huntington*, and the Lord *Wake*, and the Lord *Basset* were assigned to the same purpose, and although the Iustices, Chancellor, Treasurer, Privy Seale, and others, had before taken Oath, &c. Yet it was ordained that those of the Baronage assigned, shall give them a new Oath, and increase and diminish the Ministers of Iustice, as they shall see Cause.



CHAP. VII.

Their Tenants of ancient tenancies, being discharged of paying, the charges of Knights of the shire.

Rot. Parl.
28. E. 3.
petit 7.

THE Commons exhibite a Petition, that whereas the Tennants of the Lords that did hold by Barony, and summons to the Parliament might not be discharged of paying towards the expences of Knights, &c. That the King would declare the certainty of it. But the answer of it is on'y, As at other times, &c.

A like petition and answer is afterwards under the same King In a petition, touching the same thing, under Richard the 2, it is supposed that all ought to pay, but those which come in Parliament by summons, by writ, and do stay there at their own charges, &c.

28. E. 3. p. 7.

28. E. 3. art. 20.

In a Petition afterwards, it is supposed that the Tennants of such lands as were immediatly held of the Lords of the Parliament, contributed not to those expences but it is complained against, and the answer is only, Let it be as at other times, and

Parl. 15 R.
2. art. 37.

K

if

Stat. 12. R.
2. c. 12. &
H. 4. fol. 1.

if that any found himself agrieved he should have remedy in the Chancery, yet by a Statute which is not in the Rols of three yeares before, the Tenants of the Lords themselves shall pay for such lands, as of late times they have purchased before being contributory.

Nat. Brev.
fol. 228.

To this belongs that in *Fitzherbert*, The villaines of Lords, which come to Parliament shall not be therefore contributory to the expences of the Earles, which come to Parliament. And to this purpose the Lords may by Letters in their own names command the Sheriffe that he distraine not their villaines.

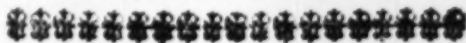
THE



THE SECOND

kind of their Priviledges.

Priviledges, or speciall Rights, that
concerne the Barons that have place
in Parliament, as they are every one
single in their private estates.



CHAP. I.

*Touching the Oath and Protestation upon
Honour.*



ALL Oaths being either promis-
sory or assentatory, and the
first being, that which binds to
a future performance of Trust.

The second, that which is taken for
discovery of a past or present truth.

K 2

The

17 Johan.
reg p. 35
41 H. 1.
Idem pag
1395. &
1315. 3. H.
Ro. Parl.

Est. Parl. 7
 8. H. 4. M.
 4. art. 66.
 5. H. 4. rot.
 Parl. 39.
 Stat. 21 R.
 6. 3 & 4.

Rot. Parl. 1
 7. Parl. 1
 an. 14 art.
 15.

Dyer, 15. H.
 3. Parl.
 Stat. Jac.
 14 & 7.
 ap 6.

The first kind, they as occasion requir'd used in taking the oath of all the Barons for the maintenance of the great Charter, and the like was under King *John* and *H. 3* as also swearing of the Lords in Parliamēt in the time of *H. the 6.* that they should not take parts in the great Controversie between the Earle Marshall, and the Earle of *Warwick*, and the oaths of divers Lords appointed for the keeping of the Parliament in 8 & 11 *H. 4.* where yet the Prince was not sworn, being one of those appointed for the keeping of the ordinances. Because of the highnesse and excellency of his honorable person; As the words are in the Roll, so under *H. the 7.* the Lords Spiritual and Temporal sware in the Parliament to the Article of taking care for the preserving of the peace, and under *H. the 8.* to the Bill of Succession; but under *Richard* the second, the Arch-bishop of *Canterbury* challenged, that neither he nor his predecessors were compellable to any oath, but to the K. and this kind of Oath is frequently taken by such Barons as undertake the great Offices of the Kingdome, and they are all liable to the like by their tenures, by fealty and by Statutes of the Oath of Allegiance, but of these kinds of Oaths for the Supremacy they are discharged by the first

first Statute that gives it; and in the case of Essoynes wherein by the ancient Law, the Essoiner was to swear that the party Essoined should appeare at a certain day, all Barons and Baronesses were excepted from the Oath, and instead of the Oath they put in surety, *Ratio vero diversitatis* (saith Bracton) *talis esse poterit ut videtur quod ita nobiles & digne persone in Warrantis- zatione Essoinis non per se jurabant sed per procuratores (scilicet) plegios suos.*

Stat. 15. E.
lib. 4. c. 4. vel. 1.
Lib 5. c. de
Essoinis, c. 2.
c. 3. & c. 9
fo. 281.

Assentary Oaths are in Cases of tryall by 12 or 24 witnesses defendants, which proceed by Bill and Answer.

1 Henry 4.
fol. 1. a 10.
E. 4 fo 6.
H. 8 fol. 12.

a Stamford, lib. 3. Cap. 1. Cooke, Liber 3. fol. 30. 6.

Plaintiff.s examined in actions of debt brought upon arrerages of accompt in cases of tryall by 12 they are discharged of the Oath that is in cases of tryall of their Peeres, in which they answer guilty or not guilty, only upon honour for in other tryals they have no part, but are exempted from being impanelled in Juries, *Nisi eorum Sacramentum adeo sit necessarium quod sine illis veritas inquiri non possit*, and thence was it that some Barons under Edward the first of the Marches of

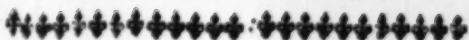
48. E. 3. fo.
30. 16. lib.
4 ff. 35. H.
6. 46. a. 22.
E. 3 fo. 13. a
27. H. 8. fo.
22. Cooke lib.
6 fo 53.

Regist. orig.
Y. 179. b.
Fitz. Nat.
bre. 1. 165.
eodem Parl.
in arce
London 20.
E. 1. Coram
Rege. Ket
re. ep. Scac-
carii.

Wales refused to swear before the Iustices of Oyer and Terminer upon an Enquiry to be made by them, and others of certaine outrages committed by *Cilbert of Clare*, Earle of Gloucester, against *Humphrey of Bohun* Earle of Hereford and *Sussex*; thole Barons were *John de Hastings*, *John Fitz Raynold*, *Roger de Mortimer*, *Theobald of Weldon*, *John Troger*, and *Jefferey of Camvill*, to whom *dictum est* (as the Rol saith) *ex parte Regis quod pro statu & iure Regis, & pro conservatione dignitatis Coronæ & pacis sue apponit manum ad librum, ad faciendum id quod eis ex parte injungetur qui omnes unanimiter responderent, quod ipsi vel eorum antecessores hactenus in huiusmodi casu, ad prestandum Sacramentum aliquid coacti fuerunt.*

And afterwards the Oath being offered them, they answered every one by themselves, *quod nihil inde facerent sine consideratione parium suorum.*

Barons



Barons being witnesses in Cases of witnesses, Examples are, that they give in their Testimonies only upon Honour.

IN the Courts of the Delegates in the 3^d of E. 6, in the proceedings against *Art. in fore deleg. 1550*
Gardiner Bishop of *Winchester*, upon a special Commission from the King, the then L. Chancellor, and Marquess of *Northum.* and the Earle of *Wiltsh.* and *Bedford*, are examined only upon their honor or sometime upon allegiance or fidelity to God & the K. and this was upon the special priviledg of such persons, for both by the Civill Laws and Common, no testimony is taken regularly but upon Oath.

In Chancery in a Case between *Jeffery* *Mich. 12.* and *Jeffery*, and in another between *Bligh-* *Eliz in ar*
ton and *Dantrey*, *Thomas* Lord *Buckehurff*, *Cui. apud*
 under Queen *Elizabeth*; delivers his testi- *Examiner.*
 mony only upon honour.

In the Court of Chivalery under *Rich. R. pro. 10*
 the 2, in the great Case between Sir *Rich. R. 2. & 10.*
Scroope appellant, and Sir *Robert* *Gravenor* *in ar, Lond*
 defendant, touching matter of Armes, the
 Attestations taken by Commission from

John of Gaunt, the Earle of *Darby*, the E. of *Northumberland*, the Duke of *Torke*, and the Earle of *Arundell*, are for ought appoeres without oath; for whereas others are sworne the Entry of their deposition is: (Pray and requests according to the right of Armes by the procurator of Master *Rich. Scroope*, to testifie and say, &c.)

And amongst others the Earle of *Devonshire* was examined by Commission, by *John Kentwood*, who in the returne of his Commission and the depositions certifies the Court, that hee had swore all the witnesses there being none of the Nobility but only the Earle in his returne, who was not sworne, but spake in the loyalty of his Chivalry.

But in the multitude of witnesses of this cause, divers Barons are sworn as the Lord *Poynings*, the Lord *Scales*, the Lord *Gray*, the Lord *Ruthen*, the Lord *Basset*. To every of which names in the attestations is added (Sworn and Examined) And agreeable hereunto is the examination in the Case of *Alice Pierce*, in the beginning of *Rich. the 2.*

Barons answering to Bills as Defendants.

For Barons answering in Chancery as Defendants, are divers presidents of such their answers in the times of *H. the 7.* and *Henry*

Ro: Pat.
is R. 1. art.
412

Henry the eight: but there are none of that time that cleeres it whether they were sworne or no; for the answers of that time, as also of the time following, till about the middle of *Elizabeth* or later, are frequently filed without any *Iurat.* to them.

BUt under *Queene Mary*, in a suit by *William Armer* against *Thomas Lord Wentworth*, touching the Inheritance of Copy-holders in *Stepney*, the defendant presents in his answer with Master *Sackfords* hand to it, who was his Councell. (And on the upper part of his answer wher *Iurat.* is sometimes but rarely in that Age witten) These words are found, this answer is made by councell and the Defendant not sworne by order of Court.

Then in *Queene Elizabeths* time the Lord *Dacres* being Plaintiff: against the Lord *Buckhurst*, and *Parker*, and *Manwood*, these two defendants are sworne, but not the Lord *Buckhurst*.

And afterwards the Lord *Buckhursts* answer is inscribed *per traditionem Comitisse super honorem suum*. So the Countesse of *Northumberland*: *In virtute honoris sui ag-* *norit responsonem suam esse veram*: as the entry is upon her answer at that time.

20. R 3. &
M. & / asce
in Sacellon.

18. Junii
Mich. 31.
& 32. E. 6.

And

32. Eliz.

And in the Countesse of *Rutlands* case where she with Sir *George Shaworth* were Defendants about the later end of *Queene Elizabeth*, The *Dedimus potestatem* was to answer upon his Oath *super Evangelia*, as also a *Dedimus* towards the end of *Queene*

44. Eliz.

Elizabeth, was directed to *Roger Bromley*, and *Richard* upon the bill of complaint of one *Brooke* against *George Earle of*

7 Sept. Mr.

42. & 4.

Eliz.

Huntington to take his Oath *super honorem*, &c. About which time also the Lord *Eure* put in his answer *super honorem* only to the bill of *John Barnes* and *Robert Talbois*.

In other Courts as the *Starr-chamber*, and Court of *Wards*, it was questioned in *Queene Elizabeths* time whether Barons being Defendants, should put in their answers upon Oath, and in the Court of *Wards* an Order was made in the Lord *Mountagnes* case, that they should and that so the course should be henceforth constant.

40 Fl.
apud Tot.
hill.O do 10.
lib. 10 Jar.
in Chanc.

The like course hath beene held of late in the *Starre-chamber*, as also in the Ecclesiasticall proceedings, and about the end of *Queen Elizabeths* time in *Chancery*, also the Lord *Wharton* by a compulsory order answered there upon Oath. And within these few dayes the Earle of *Shrewsbury* was ordered to answer upon Oath to one *Revell* being plaintife there, and divers

Nobl

Noble men have beene sworne to their answers in *Chancery* since the beginning of the King, and some in *Queene Elizabeths* time also, neither is the time of *Queene Mary* and *Edward* the sixt wholly without example, but the summe of all seemes this that according to the clayme of the Barons in 20. *E. 1.* they were not anciently till about the end of *Queene Elizabeth*, or the time of King *James*, and of our present Sovereigne compellable to sweare to their answers, for the first compulsoy order falls in the 33. of *Eliz.* in the Court of *Wards*, but that some of them taking no advantage of their priviledges in this case, voluntarily tooke the Oath, and others standing upon their ancient right, put it in onely upon honour, as also we see in that case of *Gravenor* and *Scroope*, and *Alice Pierce* under *Richard* the first, for it were not a speciall Priviledge it will fall out, that in all the Examples where they were not sworne, the Iudges committed great Injustice in receiving their answers, and depositions without oath, if they had not beene subject by compulsion to an oath, no otherwise then if a Iudge of the Common Law should admit evidence given to a Jury, or take a verdict without Oath which were not excusable. And a few examples

Mic. 4. Jac.
Mic. 18.inton
5. Com.
Pemb. Pas.
6. Com.
fine Hill. 7.
Com Dor-
set. & Do-
minus Ruf-
sel Pas.
5. Jac.
Houghton
1. L. 17.
Hutter
vers Dom.
mordant
M. 13. & 13
Eliz.
Camp. v.
Com. Hed-
fo. d. Mich.
21. 12. Eliz.
ibidem But-
vers Dom.
Rich. Hill.
4. Discourt.
Mountag;
6. H. 3. &
 of

of giving in their answer without Oath, upon this reason are of great weight against many that shewed that they were voluntary sworne, and these orders which were compulsory, are of so late time, and of so weak power, that they cannot at all take any right from the Baronage which was before settled in them.



Examined as Plaintiffs in actions of debt upon arrerages of accounts.

3. H. 6. fol.
43. & 44.

BY the Statute of 5. Henry 4. cap. 8. In Actions of debt upon Arrerages of accounts, the Iudges have power to examine the Attourney of the Plaintife, or whom they please, & this examination was meant, and hath beene practised upon Oath, yet in action brought by the Lady of *Abergavenny*, being a Baronesse against another in the time of *Henry* the sixt: when the Counsell of the Defendant desired that the plaintife might be examined, *Cockanie* the Iustice said that they should not doe well to make her being a Baronesse, come to be examined. And how ever the Statute were
generall

generall for high as well as low (as the words of the bookes are) yet hee saith the Law will bee otherwise, and different betweene another common person.

Of the forme that was used in swearing of spirituall and Temporall Barons.

IN the forme of swearing the promissory Oath, a difference hath been amongst the Barons of Parliament, the Temporall Barons under *Henry* the 7. sweare with their hand upon the Booke, the Spirituall with their hand upon their breast, first the one *tactis* the other *visis Evangelis*: Anciently this Oath was taken by the Lords in the house upon the Arch-Bishops crosse. To this day the Spirituall Lords have challenged it, & sometimes have used to sweare *visis* onely as a thing to be done by the privilege of the Church. But there is the Testimony that shewes, that all the Bishops in a provinciall Synode did sweare here their *Iuramentum corporale* which is *tactis* & howsoever if it be a privilege of Nobility in some other States or of Gentry to depose by writing without a corporall oath, as in *Bohemia, Austria Bavier* &c. yet there
is

*Rot. parl. 1.
H. 7. part.
1. M. 14. M.
15. parl. 15.
E. 3. N. 43
Circa E. 2.
de Temple
in Anonymi
chron.
Gal. observ.
prac. 100.
fol. 23.*

is no sufficient certainty, with us for
establisht difference of forme in swearing.



CHAP. II.

Tryall by Peeres.

Not in
Appeales
10. Eliz.
4. b. lib. in
traff. tit.
appeale de
mort. 7.
Stamf. &c.

1H 4. 1. an.
10. 4. 6.
13 E. 4. 12.
an. Stamf.
lib. 3. cap. 1.
Cookes lib. 9
fol. 30. b.

Stat. 4. Jac.
cap. 1.

IN all cases of Treason or felony, or imprisonment of either of these offences, a Temporall Lord of Parliament is to bee tryed only by his Peeres, if arraigned by inditement *per iudicium parium suorum*, or of 12. or more Temporall Barons of Parliament. This holds as well in ail cases made Treason or Felony by Statute, as received anciently to be so by the Common Law, as Iustice *Stamford* expressly affirmeth, although usually in Statutes which make Treason or Felony a speciall clause bee inserted for Peeres to be tryed by their Peeres, as also to the now tryall where perhaps more need was of such a clause, upon the Statute of remainder made for tryall of offences committed by the *English* in *Scotland*; It is added that if the Offender bee a Peere of the Realme, then his tryall shall bee by his Peeres; And this is cleere for all Temporal

rall Barons and their Ladies ; but it hath
 beene doubt ted whether the same Law bee
 in case of tryall of spirituall Barons or no,
 and without doubt one speciall Argument
 among others hath beene made from the
 name of Peeres some concluding thus :
 Spirituall Barons are no Peeres : therefore
 not to be tryed by their Peeres, others for
 the other part thus , Spirituall Barons are
 Peers therefore to be tryed by their Peeres,
 but of these two Arguments, the first is
 false in matter, the second in forme.

Stat. 10. H.

6 cap. 9.

Cook. lib. 6.

fo. 52 b.

For the first it is true and plaine, that
 Spirituall Lords have beene Peeres, and of
 the antecedent false : the Testimonies ju-
 stifying them to have beene, so are very fre-
 quent in the Billa: of *Winchesters* case, who
 departed from the *Parliament* at *Salisbury*,
 about the beginning of *Edward* the third :
 and was questioned for it afterwards in
 the Kings Bench , hee pleaded to the
 Declaration : *Quod ipse est unus e paribus*
Regni & Prelatus &c. and in that short di-
 sputation of the case which is left in the
 the yeare bookes, hee is supposed cleerly
 both by the Court and Councell to bee a
 Peere. So afterwards under the same King,
 in a Writ of *Wards* brought against the Bi-
 shop of *London*, he pleaded to issue and the
 Defendant could not have day of grace, for
 hee

Paf. 3. E. 3

coram rege

Rot. 9. Rep.

he said as the words of the booke are) that
 3 E. 3. fo. 186 a Bishop is a Peere of the Land. *Et hac era*
 p. 28. *causa &c.* And in a like case upon an Action of trespasse against the Abbot of *Aby-*
 13 E. 3. tit. *don* who was one of the Lords Spirituall,
Enquest. 43 day of Grace was denyed against him, be-
su. chal- cause he was *Peere de la terre*. So expresse-
lence. ly upon the Question of having a Knight
 Plowden returned into a *Jury* where a Bishop was
Com pl. 117 Defendant in a *quare impedit*, the rule of
& ve. Hill. the Court was that it ought to bee so, be-
 8. E. 3. Ro. cause the Bishop was a Peere of the
 23. coram Realme. So the Iudgement given against
Rege. the Bishop of *Normich* in the time of
Richard the second, hee is in the roll ex-
 pressely allowed to bee a Peere, for hee
 had tooke ceceptions that some things
 had passed against him without assent or
 knowledge of his Peeres of the Realme.
 To which exception the answer was,
 It behooves you not at all to touch
 your Prelate of onely certaine misprisi-
 fions, which you as a Souldier of the
 King, &c. have done and committed,
 &c. Here is to be avoided that challenge
 of *Stafford*, Arch-Bishop of *Canterbury* un-
 der *Edward* the third, when upon his being
 excluded the Parliament, he thus challeng-
 ed his place. *Ego tanquam major par Regni*
post Regem vocem habens Jure Ecclesie mee

tantum vendico & ideo ingressum in Parliamento peto, the same is justified by the Clergy touching their *Ius paritatis* before recited at large and entered in the Parliament roll. And in the Assignment of the Errours under *Henry* the fifth, for the reverfall of the Attayndor of the Earle of *Salisbury*, one errour is assigned that Judgement was given without assents of the Prelates which were Peeres in Parliament, and that although that were adjudged to bee no errour, yet it hath been allowed cleere in the roll, and the Petition that they were Peeres. So in an Act of Parliament under the same King, the Bishops and Arch-Bishops, and Arch-Bishops of *Ireland*, are called Peers of that Kingdome, and divers other passages occurre touching this name of Prelate, neither could any scruple bee further made of it, untill the passing of an Act of this Parliament. 17. *Car.* 1641.

*Stat. 4. H. 5.
ca. 6. 33.
H. 8. Try-
al 141.*

But as this is cleere that they were Peeres, so also it is cleere that they were not by the lay to bee tryed, as Temporall Barons by their Peeres, and the conclusion of the contrary drawn (as before) out of that that they have been Peers, is wholly without consequence, this having been a point of the common

L

Law

Law, as it is distinguished from Acts of Parliament, which falls out generally to bee onely the knowne and received custome within the Kingdome, if the practise and custome within the Kingdome be therein observed, the point of Law may bee soone resolved. In the practises and customes divers Bishops are found to have beene arraigned, and legally tryed upon Capitall offences, yet all that have beene so, have had their Triall onely by common Iuries, and whether by Statute any alteration bee of this common Law shall presently be examined, there being many Bishops now to be tryed.

Hill 17.
E. 2. Rot.
B7. Dorse
coram Rege
& Rot.
Rom. m. 6.

That practise and Custome appeareth in particular examples found from the time of *Edward* the second to the age next before us thus collected; *Adam* Bishop of *Hereford* under *Edward* the second, was indicted of divers Felonies, and of joyning with *Roger Mortimer*, hee is arraigned in the Kings Bench: and upon question how hee will be tryed, he saith: *Quod ipse est Episcopus Heref. ad voluntatem Dei, & summi Pontificis, & quod materia predicta Articulorum sibi imposit. adeo ardua est quod ipse non debet in Curia sic super predictis sibi impositis respondere,*
nec

*nec inde responders potest absque offensus
divino & sancta Ecclesia :* Hereupon day
is given over, and then the Inditeiment
is brought into the Parliament, where-
upon his arraignment, hee give the like
answer, and *Walter Arch-Bishop of
Canterbury petit eum, & ei liberatur,* and
this is commanded that hee have him
ready at a certaine day in the Kings
Bench. *Et præceptum est vicecomiti He-
reford. quod venire faciat coram Domino
Rege tot & tales &c. ad inquirend. prout
moris est &c.* And a common Iury is re-
turned which finds the Bishop guilty,
whereupon hee is committed to the
Arch-Bishop and convict, and his Lands
and goods are seised into the KING S
hands.

Here was the Bishop tryed by a com-
mon Iury, although it appears both in
the Record, and in the History of that
time, that the whole Clergy earnestly
indeavoured to have kept him from con-
viction, but no pretence of any right of
Tryall by Peeres is once mentioned in
this behalfe, though other complaints
are full enough expressed against the whole
proceedings.

*Thomas
Walsingham
fol. 194.
Transfert.*

Ti. 30.
E. 3.
Rot. 11.
Rep.

Vnder Edward the third John de Isle brother to Thomas Hen, Bishop of Ely, was indicted in Huntingdonshire; that he with divers others per assensum, & procuracionem Episcop. 28. E. 3. die Lune post festum Sancti Iacobi, burnt the house of the Lady Wake at Colne, by Sommersham, & quod predictus Thomas Episcopus sciens predictam combustionem per predict. servientes suos esse factam dictos servientes apud Sommersham postea receperit, &c. And also it was found before the Sheriff and Coroner that 29 Edward the third, the Bishop was guilty de assensu of the murther of one William Holme, slaine by Ralph Carelesse and Walter Rip-ton called little Watt, upon malice conceived against Holme, becaute hee followed the suit of the Lady Wake, the principalls were attainted by Outlary, the Bishop was arraigned, and upon question how hee would bee tried dicebat quod ille est membrum Dom. Papa, & quod ipse ab ordinario suo viz. venerabili patre Domino Simono Archiepiscopo Cantuari. Anglie primat. respondere non potest. Et super hec idem Archiepiscopus præsens hic in Curia petit, quod dictus Episcopus Eliensis de felonis predict. sibi impositis hic

CORAM

coram laico Iudice, non cogatur respondere, & ut sciatur inde rei veritas per inquisitionem patrie &c. precept est vicecomiti Huntingdon, quod venire faciat coram Dom. rege in Octab: sancti Mich. &c. ubicunq; &c. 24, de Iust. de Somersham & idem dies datus est Episc. &c. Ad quem diem coram Domino rege venit predict. Episc. in propria persona & similiter iuravit. veniunt qui electi, tricati, iurati & onerati, si idem Episc. de assensu pr. dictorum Rand. & Walter. & de recept. eorundem sit culpabilis, nec non dicunt super sacramentum suum quod idem Episc. est in nullo culpabilis, sed dicunt quod idem Episc. post feloniam receptavit ipsos apud Somersham, sciens ipsos feloniam fecisse. Ideo inquiratur de bonis, catallis, Terris & tenementis &c. Et super hoc predictus Archiepisc. presens in curia petit ipsum tanquam membrum Ecclesie sibi liberari, & ei liberatur custodiend. prout decet, and Writs were sent out to the Sherifes of all Shires where hee had goods or Lands to certifie them for the Kings benefit, and in this Record it is observable that the *jurors* were tried, which proves, that the Bishop had his challenges to them at his tryall.

About the beginning of Henry the fourth, Thomas Merke Bishop of Carlisle was indited of Treason before Thomas Earle of Warwick, and other Iustices

of Oyer and Terminer in Middlesex, the
 Bishop standing before committed to the
 Tower for the same offence. Et hoc Iusticiar.
 predict. recognit. mandatum est constabulario
 Turris predict. vel ejus locum tenenti quod corpus
 ejusdem Episcop. habeant, vel alter eorum habeat
 coram prefatis Iusticiariis apud Turrim predictam
 die Mercurii ex tunc proximo sequente ad
 respondendum Domino Regi de proditionibus
 &c. And the precept est vicecomiti London,
 quod tunc venire faciat coram prefatis.
 Iusticiar. apud Turrim predict. tam Aldermannos
 & civis quam alios probos homines de vicineto
 Warder. predict. i. Baynards Castle & Dougate
 qui prefat. Episc. nulla affinitate attingunt
 ad faciendam tunc ibidem deliberationem de dicto
 Episcopo prout moris est secundum legem Regni
 Anglie ad quem diem & locum, the Bishop is
 brought before them, and a Writ comes from the
 King to the said Iustices reciting that licet in
 statuto apud Westminsterium nuper edito inter
 cetera continetur quod nullus Archiepiscopus,
 nec Episcopus coram Iusticiar. nostris occasione
 alicujus criminis impetatur absque speciali
 precepto nostro quousque aliud remedium
 inde foret ordinatum de advisamento tamen
 consilii nostri vobis mandamus quod

quod si aliqui Archiepiscopi, vel Episcop. coram vobis impetiti vel iudicati existunt, tunc ad deliberationem ipsorum procedatis prout de Jure & secundum legem Regni nostri Angliæ fore videritis faciendum, statutopredicto non obstante, Teste meipso apud Westminsterium 28. die Januar. Anno Regni nostri primo.

THIS Writ being read in the Court, the Bishop was demanded how he would be tried, Hee first stands upon the privilege of the Church, to whom the Iustices reply that the offence was so high, that hee must answer them with protestation of saving the Liberties of the Church, hee pleads not guilty. *Et inde de bono & malo ponit se super patriam, inde fiat inde Iurat, hoc instante die &c.* The Jury findes him guilty, but the Iustices being not advised of their Iudgement, returne him to prison, the Record was afterward removed in the Kings Bench, and the Bishop renders himselfe to the prison of the Marshallsea; and then being asked if hee had any thing to shew, why Iudgement should not bee given on him hee pleades his pardon, and it is allowed him.

To these presidents: a Learned Iudge

Camf. lib.
fol. 133.

tempore
H. 8. pro
triall 141.

Camf. lib.
fol. 135.

ambd. in
rds Angl.

in *Queene Maries* Time saith di-
vers were agreeable. Among which are
specially to bee accounted those of the Bi-
shop of *Rocheſter* in the time of *Henry*
the eight, and of *Crammer* Arch-Bishop
of *Canterbury* under *Queene Mary* both
tryed by common Iuries: neither is
there any example extant from the first
memory of a legall tryall of Bishops which
is under *Edward* the second, that testifi-
eth any Tryall by Peeres belonging to a
Bishop, and accordingly hitherto it was
taken cleerely by that learned Iudge of
Queene Marie's time, that no ancient
Statute speaking of tryall by Peeres, hath
beene put in ure to extend to a Bishop,
or Abbot, although they enjoy the name
of Lords of the Parliament, for they
have (as the words are) this name of Bi-
shop or Abbot *ratione Officii* being not
chosen in Parliament in respect of their
Nobility, but in respect of their posses-
sions the ancient Baronies annexed to their
Dignities according to which there are
divers Presidents, whereof one was in the
time of *H. the 8.* where also it is as judici-
ously & modestly affirmed by a most lear-
ned man of this Kingdom that the spiritu-
all Lords enjoy all legall priviledges, as the
temporall Barons do saving only this try-
all by Peeres. That

That which may be here objected out of the Statute of the grand Charter wherein every man ought to be tried by his Peeres, *id est, iudicium Parium suorum*, or out of the Statute of 25. E. 3. by which all treasons are to bee tried by men of the same condition, of which the offender is, may easily be answered; for both these ancient Statutes are now to be interpreted, as it is clerely taken in continuall practise, and in the books according to the known use of the legall proceedings, and not by littrell interpretation of the words, as it is plainly seene in both of them: For all Gentlemen, Esquires, Knights, Batchellors and Bannerets, and at this day Bannerets are accounted Peeres, not only amongst themselves, but also to all other men of the lowest condition which yet cannot be out of the force of the word, only the like appeareth in that *non amercientur Comites, vel Barones, nisi per pares suos*. And it is shewed in the title of Amerciaments, wherein that which the Statute referres to Peeres is done so by Iudges. And this of Bishops referreth to those Statutes is only to be adjudged according to use and practise, which is the best interpreter of the Statutes and not by the meere Interpretation of the word Peeres.

And

1 Mar. Dyer
fo. 986. Hal-
lenshead
Cron. fo.
1749. Sum-
plis. case.
Coo. fo. 40. 5

Parl. 18.
H. 6.

And it is most likely that if any such right had anciently belonged to them, not only they themselves, but the temporall Baronage under *H. 6.* protesteth by the mouth of Viscount *Beaumont* for their triall by Peeres, when *William de la Poole* put himselfe upon the King and not on his Peeres, in such sort as those Bishops put themselves on the Pope, and not upon any legall Triall.

Stat. 1st E.
1st R. 2.

But one particular case is here to be added touching this right singled by it selfe, that is, Triall by Peeres upon the third offence against the Statute of Service and Sacraments, under Queen *Elizabeth*, for the known triall by Peeres, is in cases of treasons or misprisions, or one of them. And triall by Peeres saved to the Baronage in the Statute of new treason of felony hath reference only to the known use of such triall, so that in those new treasons, or felonies, such as for other offences, which were before treason or felony, were to be tried by their Peeres, are likewise (and none else) to be tried by their Peeres for new treasons or felonies, and therein the Spirituall Lords are equally excluded. But this of the third offence, against that Statute, is neither treason, felony nor misprision, but a Trespasse, punished only by forfeiture

seizure of goods, and perpetuall imprisonment. In which Case this act saith without reference to the use of triall by Peeres, as it is usually expressed in other Statutes, that all and singular Lords of the Parliament for the third offence shall be tried by their Peeres.



CHAP. III.

Scandala Magnatum.

IF any person shall divulge false Tales of any of the Lords of Parliament, by which dissention may bee betwixt the Commons and them, the offender is to be imprisoned untill hee bring forth the Author, but this also is communicated to the greater Officers of the Kingdom.



CHAP. IV.

Proces against them in English Courts, by Bill and Answer.

THe course of the Chancery is, and of the late Starcham. was that the Chancellor

cellor writes to the Lords of Parliament, and sends out *Subpœna's* and usually his letters are prayed in the Bills that are exhibited against them.

But whether upon a Barons not appearing on a *Subpœna*, an attachement may be awarded hath been a question, neither do I find it cleerely resolved otherwise than that in later times, the practise is, that it may: but in the time of *Queen Elizabeth*, in a suit between *Tavernor* and the Lord *Cromwell* the defendant disobeying an Injunction in the Chancery, it was questioned what course should bee taken against him, and upon good and deliberate advice taken by the Court, having the opinion of some of the Iudges herein, an attachement was awarded to the Sheriffe of *Norfolke* and returned so and the Sheriffe had his costs for bringing him. This attachement was awarded in *Michaelmas Terme* and in *Hillary Terme* he was returned so, but afterwards there being a Parliament began in *May*, and ended in *June*; the Lord Chancellor complained of it, and it was pretended that it was gotten in Court, in the absence of the Lord Chancellor, and advice was had with Councell, and Iudges, and it appeares not (as the words of the Journall booke are) that by
the

Lawrence
Reunins li. 2
a Comp.
lawise f. 33.

the Common Law or by any presidents of the said Court of Chancery, it was warranted that the person of any Lord having place and voyce in parliament (in the like case) in the said Court of Chancery before this time had been attached, and therefore they took it to be against the priviledges of the Lords of this Kingdom, and he was discharged.

*Dyer, Parl.
1. v. 1. 4. E. 6.
& Dyer fo.
314. & 315*

But for that of attachment upon *Subpoenas*, and in the course of proceeding against noble men by such Writs or Bills as are used in the Exchequer, Chancery or elsewhere, it is not likely that any certain, Course of ancient Common Law, or proceeding in equity can be found to justify it at all either against them or any other persons beyond the time of *R. 2.* under whom *John Walsbam*, Bishop of *Salisbury*, and Chancellor of *England* brought in the Writs of *Subpoena*, & *ceteris de causis*, in the Chancery and the Exchequer, by example whereof other Courts have used them, against which the Commons passed a Bill in Parliament under *Henry the fifth*, but the King would not give assent to it. The like is found under *Henry the sixth*, and *Henry the fourth*.

*Rot. Parl.
1. H. 6. parl.
1. M. 2. N.
46. Rot.
Parl. 15. H.
6. N. 25. &
Parl. 2. H. 6.
art. 69.*



CHAP. V.

Their number of Chaplaines qualified.

BY the Statute of Pluralities, every Arch-bishop may have eight Chaplaines that may take dispensations for a plurality, but for the plenty of Schollers of good ability in Arts and Learning, it is like the Law in these points will be altered, that they all have and none want convenient benefice.

Every { Marquesse and Earle,
Viscount,
Bishop,
Temporall Baron, } may have { 5
4
6
3 } Chaplaines.

Every { Dutchesse,
Marchionesse,
Comtesse,
Baronesse, } being Widowes { two.

CHAP.



CHAP. VI.

Their retaining of Strangers.

A Baron of the Parliament may keepe six strangers borne out of the Kings obedience at one time, whereas another man may retaine not above foure.



CHAP. VII.

Clergy.

Vnder *Edw.* the sixt, a priviledge was given to the Nobility, that in all cases where a common person, as a Clerke convicted shall and may have benefit of his Clergy, and in all cases where priviledge of Clergy is restrained, or taken away by that Statute except in willfull murder, that is, Burglary, Robbery, by or neere the highway, stealing of Horses, and Sacrilege; a Lord of the Parliament and Peere of the Realme should at the first offence, only of common grace without prayer have benefit.

fit of the Clergy, and stand as a Clerke convict to make purgation, although hee cannot read.

Pari. Cor.
lib. 2. fo.
130 a.

But as *Stamford* notes in all other cases, in which Clergy is taken away since that Act. A Baron of the Parliament is in the same case as any other common person is; And by Acts made since, it was taken away generally.

1 For stealing of Horses, 1. E. 6. cap. 33.

2 Robbing in dwelling houses, &c. in or neere the high way, 5. E. 6. c. 9.

3 Burning of Houses or Barnes, pety treason, 5. *Phil & Mar. c. 4.*

4 Stealing of 5 s. in any dwelling house or any place adjoyning, 39. *Eliz. cap. 15.*

5 Stealing of 12 d. or more without the knowledge of the person, &c. 8. *Eliz. cap. 4.*

6 Burglary and Rape, 16. *Eliz. cap. 7.*

7 Killing one that hath no weapon drawn, 1. *Jac. cap. 9.*



CHAP. VIII.

Their liberty of hunting in the Kings Forests.

QUicumq; Archiepiscopus Comes vel Baro veniens ad nos, per mandatum nostrum transiret per forestam nostram liceat ei capere unam bestiam vel duas, per visum Forestarii si presens fuerit, sin autem faciat cornare, ne videatur hoc furtim facere, hoc liceat eis reddenda facere sicut predictum est: and this hath been interpreted to the coming of a Lord by summons to the Parl. by proces out of the Chancery, Kings bench or otherwise, where the returne is *Coram Rege*.



CHAP. IX.

Amerciaments.

IN case of Amerciaments of Barons of Parliament upon nonsuits, or other Judgments, ending in *miser cordia*, there is a speciall course, both for the summe and the way of ascertaining of it, which differs
M from

from the Amerciaments of cōmon persons.
 38 E. 2 fol. For the summe, the Amerciaments of an
 31. 2. 24. f. Earle, or Spirituall, or Temporall Baron is
 2. f. 41 b. 1. equal, that is, 5 l. of a Duke, 10 l. and the
 H. 6. 7. 9. 11. seiling of this is by the Kings Iustices, be-
 6 f. 2 b. 19. fore whom the action dependeth. The Iu-
 8. 4. 9. 2. stices in this place supplying the roome of
 21. E. 4. f. 77 Peeres, by which according to the grand
 b. Charter they are to be amerced, as expre-
 fly it is affirmed in the Iudgement under
 H. 6. against the Earle of Northumberland,
 where the words of the Iustices are, Inso-
 much as an Earle is a Peere of the Realme,
 he shall be amerced by his Peeres, accord-
 ing to the Statute and therefore we put
 not the Amerciament in ce taine.

And thence and thus is the grand Char-
 1. H. 6. f. 7. ter to bee understood that saith, *Comites*
 b. Cook. 8. & *Barones non amercentur, nisi per Pares*
 f. 4. suos, but continuall usage hath thus (as be-
 Gr. ffeys fore is shewed) interpreted that priviledg
 calc. and so hath the practise been, and thence
 c. 4. f. 3. De was it under E. 2. a writ was directed to
 cor c. 1. fol. the Iustices of the Common pleas that they
 116 b. should not amerce the Abbot of *Croiland*,
tanquam Baro, because he did not hold *per*
Baroniam, aut partem Baronie.

Claus. 15.
 E. 2. m. 12.

For this of Amerciament while there
 were no other Titles of greater Nobility
 but Earle and Baron, which was in the

time of E. 3. who created the first Duke in England, as Rich. the 2. the first Marquess; and H. 6. the first Viscount. And the Amerciaments of the Lords of the Parl. were all at 5 l. whence also is generally so affirmed in the Statutes of Ireland under H. the sixth, that every Lord that is called L. of Parl. in all places as well personall as reall, in which amerciaments do ly, shall be amerced at 100 s. But when other dignities were made, and it seemes according to the proportion of the reliefes, paid by thote new dignities, for a Duke is to be amerced at double the summe of an Earle that is 10 l. as his reliefe is double, which is 20.

CHAP. X.

No proceſſe in civill actions to bee awarded against the body of a Baron.

NO baron of the Parliament or Baronesse is to be arrested by *Capias* upon action of debt, account, trespass or the like, but they are to be distrained only and pay issues, returned for an apparance. The reason of this was anciently, because the

11. H. 14. 2.
Cooke lib. 6.
fol. 52. b. 27
11. 3. f. 7. a.
14. 2. 22. b.
29. Aff. Pl.
33. 14. Elix.
Dyer. fol.
315. Trin.

1. Hen. 4. Rot. 8. Coram Rege Exonw. lib. Inquet & tit. Error.
M. 1. 20. 13. R. 2. tit. return del. vic. 74. 10. H. 4. tit. proceſſ. 44.
198. 1. H. 5. fol. 22. b. v. Aff. 21. E. 3 fol. 59. b.

M 2

Capias

Capias in such Cases, goes out only upon *nihil habet*, returned by the Sheriffe which could not be for a Baron who was ever to be supposed to be seised of his Barony, by which he might be distrained and lose issues. Although the reason failes now in those that have not more than the names alone of their Baronies, yet the same Law still remaines, but this limited to actions between party and party, and party for in cases of rescues, felonies, or the like, where the offence is immediatly to the King, A *Capias* lies against a Baron of the Parl.

And it is as other priviledges which are legal in *England*, limited also to the Barons of the *Parl. of England*, for it appeares under R. 2. that in an action of debt, a *Capias* was awarded against the Countesse of *Ormond*, being one *Irish* Baronesse, and participating of her husbands dignities as our Ladies in *Eng.* neither can a Baron of *Ireland* be tried here by the Peeres of *Eng.* for they are not his Peers, no more than the *L. Zancbar* might being a Baron of *Scotland*, who was indicted and arraigned only by the name of *Rob. Creighton* Esquier and upon this reason, that he was no Baron of *Parl.* tried by a common Iury. Thence it is also that an Earle, Baron, or Duke of *France* comming into *Engl.* by the Kings
safe

life conduct shall not in any legall proceedings be stiled so, as appeares in the time of *Edw.* the 1. in the case of the E. of *Richmond*, being then Duke of *Brittaine*, and in the case of Sir *John Douglass* under *Edw.* the 4. And the reason why *S. Gilbert Humfravill*, in the time of *Edw.* the 3. was legally to have his title in writs of Earle of *Anguish*, was becaufe that in that age the E. of *Anguish* by that name was L. of the *Parl.* as it is expressly noted in our year-books.

39. Eli. 1. 39.
b & Claus.
39 E. 3. m. 2

And this difference it seemes hath beene here between Temporall dignities, and Spirituall, that in regard the temporall State of *England* was ever held as severed and distant from other States, not at all communicating with them in civill government. Therefore forraigne dignities which are of the Civill part of States, had no respect given them as appeares in the examples already brought.

But on the other side in dignities Spirituall, because there was anciently through Christendome supposed an unity in the Church. So that *England* with forraigne Nations, and they with *England* (as members of one body had a mutuall reference to each others Countrey) was legally valued, as Bishops in *England*, as may be seen in that case of the Bishop of *Utrecht* (for this

19. 8. 3. the
Trial 57:

this is the right Name, though it be pri-
 ored *Irston*) under *E. the 3.* where being
 made Bishop of *Virecht* makes a Prebend
 of *England* So the Title of Cardinall was
 usually given in legall proceedings to such
 as had that dignity in *England*, whence al-
 so the Archbishop of *Regase* being parson
 of a Benefice in the Bishoprick of *Carlisle*,
 under King *John* was (it seemes) to have
 been accounted here also an Archbishop
 for dignity, though not for Iurisdiction.

Extra. tit.
de renuntia.
cap. 9. ad
Supplicatio-
nem.



CHAP. XI.

13. E. 3. tit.
challeng. 115
& tit. En-
quest. 43.
Ploud. Com.
1. 117. & 1
& 2 Phil.
& Mar.
Dyer f. 107
63. & 4. 61.
idem f. 108
b. 27. H. 8.
12. b.

*A Knight to be returned upon every pannel
 Where a Baron is party.*

IN every Iury impannelled between any
 Baron of *Parl.* and other person what-
 soever, one Knight at the least is to be re-
 turned, which failing the array may bee
 quashed by challenge: A testimony hercof
 aswell for spirituall as temporall Barons is
 frequent.

CHAP. XII.

No day of grace against a Baron.

11. E. 3. f. 9
11. 27. E. 3. f.
88. b. 37. H
1. 12. b.


IF a Baron of the *Parl.* be plaintiff or de-
 fendant in any action, and the plaintiffe
 or

or defendant pray a day of grace, he shall not have it against him, and this is expressly affirmed in the books.



CHAP. XIII.

Making deputies of places of trust committed to them.

 In late years it was agreed in the case of Gilbert Earle of Shrensbury that whereas the office of Stewardship was granted to the Earle of Rutland, without giving power to make a deputy (and this by Q. Elizabeth) that yet he might exercise the same Office by Deputy, by reason of the necessity that is supposed in the lawe to be of the Earles attendance upon the King and the Government of the Kingdome, the same reason is it seemes for all Barons.

FINIS.

